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Wednesday 3 April 1991

### Standing committee on the Ombudsman

Ombudsman of Ontario

## Assemblée législative de l'Ontario

Première session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Le mercredi 3 avril 1991

### Comité permanent de l'ombudsman

L'ombudsman de l'Ontario



Chair: Mark Morrow  
Clerk: Franco Carrozza

Président : Mark Morrow  
Greffier : Franco Carrozza

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON THE OMBUDSMAN

Wednesday 3 April 1991

The committee met at 1015 in room 151.

### OMBUDSMAN OF ONTARIO

**The Chair:** I see a quorum. I am Mark Morrow, Chair of the standing committee on the Ombudsman. I would like to welcome everybody who is gathered here. I would like to introduce Roberta Jamieson, the Ombudsman. I would ask you at this time to make some statements and then we would like to ask you some questions, if you would not mind.

**Ms Jamieson:** Well, sago, in my language, good morning, bonjour. I am delighted to be here with the committee in the presence of the Chair. I have been looking forward to this meeting for some time. I have looked forward to it since my appointment, really, in October 1989.

My hope was, and is, that with so many new faces on the committee in particular, we will be able to get off to a fresh and productive start. I am, however, a little disappointed that my offer and invitation to meet you informally for a frank discussion on roles was not taken up before we had a formal session, but I am still hopeful we can get off to a good start. I had prepared my remarks believing we would be having an informal session, but I am quite prepared to have them on the public record.

We each have complementary roles to play in assisting the people of Ontario to receive the highest possible quality of public administration. In the tradition of Ombudsmanship which has developed for some time now, the Ombudsman is an officer of the Legislative Assembly, of which you are members, as is true of other officials, such as the Speaker and the senior Clerk. I am here to serve the Legislature, but because the Ombudsman must have an independence and neutrality as well as considerable authority, the difference between myself and other officials of the Legislature is that my mandate and powers have been established by an act of the Assembly. The Ombudsman is independent of government, able to look at a matter objectively, expertly and impartially.

Traditionally, democratic government has relied upon the courts to keep in check inequities in government administration. Courts make findings, as you know, according to fine points of law in a fairly limited scope, not as to whether an action of government officials was unjust, unfair or just plain wrong.

In my view, the Legislature established an Ombudsman as its officer, a trustee, if you will, to assist it in fulfilling its democratic responsibilities by providing an alternative to the courts—a much cheaper one, and hopefully one that moves much faster. The ambit and scope of the powers given to the Ombudsman by the Legislature to investigate concerns raised by members of the public in their dealings with government officials are broader than the scope of review of the courts. Unlike the courts, the

Ombudsman's function is designed to permit redress of public actions which are unjust or which do not meet the standards a citizen can reasonably expect in the administration of government.

The process of the Ombudsman is flexible, rather than one governed by rigid rules. A member of the public receives prompt determination regarding a complaint, without the necessity of legal counsel. I have assigned members of my staff to interview anyone who has an issue or a concern about government, and I have skilled investigators to determine the facts on which I reach my conclusions.

It should be noted that I do not automatically take the citizen's point of view. Neither do I automatically look for a way to apologize for government actions. To those who would wish the Ombudsman to be more of an advocate, I say I have more influence if I have a reputation of objective fairness.

I do not have the power to give any orders or to force my recommendation to be acted upon. I rely upon reason, persuasion and the support and prestige which the people of Ontario bestow on my office. In addition, I rely on the goodwill of the government, and ultimately on the Legislature, to accept and act on the recommendations of its officer and trustee the Ombudsman, and that is where our roles converge. This committee is quite unique among other committees of the Legislature, to reflect, I believe, the uniqueness of the Ombudsman's mandate and relationship to the Legislature.

Here is how we converge. In situations where government does not follow my recommendations, I may choose to bring the matter to your attention. The Legislature has created this committee to assist it in considering my reports and the action I am recommending. That is the traditional and original role of the committee as I see it, and I will be looking forward to hearing your own views in a few moments on just that subject.

I mention this at the outset because somehow in recent years, in my opinion, the relationship between the Ombudsman and the committee has kind of slid off the tracks. Somehow it seemed to have been forgotten that the Ombudsman was an officer of the Legislature, not a creature of government. It may not be too strong to say, if you look back at the last couple of years, that even an adversarial relationship developed between the Ombudsman and the committee.

I can share a few examples. I have been asked, for instance, to provide my files to the committee, although by law I am prohibited from doing so, and of course I am not able to comply with that request. In the past I have found the committee considering me as if I were a party to a complaint. There was even a suggestion that I go to arbitration regarding a recommendation I made.



Maybe there are those who would disagree with my view of the committee's role and its past course of action, but I think it best if I talk frankly with you and encourage you to talk frankly with me. I would only ask that we attempt to maintain the dialogue as long and as frequently as necessary so that we can develop a consensus on a productive working relationship, which I believe we all owe the people of this province.

In the vast majority of cases that I deal with, my staff is able to assist persons with concerns and public officials to arrive at a mutually satisfactory resolution, one that meets standards of fairness I am pledged to uphold. When this cannot be done at the outset, I conduct a formal investigation. Even during the course of this investigation, often a resolution is achieved; If not, however, my duty is to arrive at a finding, and usually the findings are accompanied with recommendations. Again, in the vast majority of situations which have reached that point, the recommendations are accepted and implemented. In those few instances—and I am pleased to say they are few—in which the head of the organization decides not to implement my recommendations, I have the option of pursuing the matter, not only with the minister responsible but also with the Premier. If those avenues are not successful, I have the option of placing the matter before the Legislature, which usually refers my report to this committee.

I can assure you that before I refer a matter to the Legislature, I will have given the case a very careful review and a great deal of deliberate consideration. I will have examined the case afresh and I will have satisfied myself that an extensive and complete investigation was made. I will know that my expert advice, any that has been furnished, is of the best possible quality. I will have intensively questioned my investigative and legal staff until I am satisfied with their answers. I will have re-examined all available evidence. I will have satisfied myself that all questions, facts or objections raised by the ministry or agency complained against have been diligently investigated and given full consideration. You can be sure, then, that if I have resorted to referring a matter to the Legislature, I have not done so casually.

My objective will be clear and up front. I will be seeking the support of the Legislature in getting my recommendations implemented. If I am requested to do so, I will appear before you to explain my recommendations in detail. Both in my report to the Legislature and in my appearance before its committees, I understand my responsibility to demonstrate to you that I have fully complied with my mandate in making my findings and in determining my recommendations. I understand you are going to want to confirm that. I know that you will want to assure yourselves that I have done all the things I said I would do: carefully reviewed the facts, inquired into all relevant circumstances, meticulously reviewed the ministry's response and so on. If you are satisfied that is so, my hope is that you would decide to support my recommendations.

Of course, you might also want to discuss the matter with the head of the government organization or other officials, even to exercise some degree of persuasion and to make your own recommendation to the Legislature that it pass a

resolution or change a law or take other appropriate action. It is the potential of ultimate public scrutiny by the Legislature which provides the Ombudsman with her strongest weapon in encouraging government to make appropriate settlements with its citizens. However, if this committee and/or the Legislature decide not to support my recommendations, then that is where the matter dies for me. I have done my duty. My mandate has been fulfilled. I accept that as your role.

As an officer of the Legislature, I do not think it is my responsibility to second-guess it. Neither do I see it as the role of committee, and committee has said this itself, to act as an appeal court to rehear the evidence. It would be a waste of resources to have both the committee and the Ombudsman do the same thing. The committee is also not in the same position as the Ombudsman to find the facts initially. I have got some pretty vigorous investigative powers available which you have given to the Ombudsman. Last, it would certainly undermine the Ombudsman's authority and the respect for it as an institution.

Having said that, certainly I will not come before you and present contrary facts. I should say also that although one or both parties, speaking then of the individual who has complained and the ministry involved, are not always happy with my findings and my recommendations, it is they who are in dispute, not the Ombudsman against a ministry.

There is a second role of this committee which involves the setting of regulations under the Ombudsman Act. Some years back the committee felt that it would be assisted in that role if it were to hear comments from the public about its experiences with the Ombudsman. That role too seems to have slid far from its original purpose.

### 1030

If I may suggest it, it is of course proper, even necessary, that the committee examine letters of complaint and concern which it receives in order to consider whether its review of the matter would assist its regulatory responsibility. I know you have that under the act and I know you are able and make guidelines and regulations for the office of the Ombudsman. Where this is not the case, however, the committee might explain that since the Ombudsman's decisions are not coupled with the power of enforcement, there is no right of appeal, including an appeal to committee.

I can assure you that any ordinary concerns about the service rendered by my office will receive my personal attention and I welcome any referrals of concern directly to me. Where matters coming to the committee's attention could have an impact on regulations, I will be pleased to appear before committee to explain procedures or the general courses of action which are taken under my direction. I may have suggestions for regulatory change which will improve the quality of service provided by my office. You will receive my full co-operation in these matters, I want to assure you.

What I cannot do, however, is to share my files or comment directly on a particular case. Any complainant is of course free to share with you any of his or her letters from me, and as I understand it, that is all past committees have wished to see. My unwillingness to share internal files and correspondence with ministries is a result of the



legislation, of course, and I believe it is a wise limitation if the involvement of the Ombudsman is to be perceived by the public as fully and inviolably confidential. I can of course discuss with the committee the general process and procedure which I follow and am happy to do so.

There is a third role which I would hope this committee would play, and it is an informal one. Ombudsmanship is evolving to fit changing circumstances and times and it is my own goal to keep Ontario on the leading edge. I would value your ideas, and in my annual report, which I hope to have before you in a few months, I will be suggesting some areas which I myself would like to explore. I spent a full year, as some of you may know, as an ex officio member of a full-time parliamentary committee and I recognize the need for formal sessions and a formal relationship. I recognize that there is also great potential value in informal discussions about philosophical and practical issues.

In the context of my annual report as well, I am going to be suggesting some changes which I foresee as necessary if the Ombudsman is to provide the quality of service which the people of the province expect and deserve and which I know you will want them to have. Both formally and informally I will be seeking your support so this standard can be achieved.

So that we keep in good communication, I have appointed two senior staff members to keep on top of liaison with the Legislature, with each member, with your staffs and with this committee. They are Fiona Crean, who is the new director of community access and intake, and LaVerne Monette, who is the senior policy adviser with my office. If they can be of any assistance, I know they are going to respond to your direct inquiries or inquiries made through your clerk on your behalf. With your permission, I will maintain my direct relationship with this committee through the Chair.

In the past, committees have had an orientation session with senior staff in my office. I am happy to continue that, and I would hope at that stage we will have an opportunity to talk about, and I will be happy to talk about process. I am happy to acquaint you with how we go about an investigation and for you to hear directly from my staff as well as from me. I look forward to that session as being one of very meaningful substance.

In conclusion, thank you for allowing me to set out my ideas and my concerns. I hope they will be useful in stimulating and focusing us on issues which I consider to be important in supporting each other's roles.

**The Chair:** Thank you very much, Ms Jamieson. Before we move into questions, I have one announcement. The Chair will be leaving at 11 o'clock this morning, so I would like to appoint Irene Mathysen as the Chair at 11 o'clock, if we do not have a problem with that. Can we move on to, I would hope, an open and frank discussion with Ms Jamieson.

**Mr Curling:** Ms Jamieson, it is good of you to be here and I know you have met this committee before. I myself and my colleagues wanted to have this meeting of this nature. I regard this as the most important committee in the entire Legislature. I say that very seriously because

as the society becomes complex—we have the kind of society that we have here in Ontario, so diverse and so multicultural and multilingual—one of the problems that is faced is poor communication. A great amount of bureaucracy is being set up and a tremendous amount of money is being spent just to resolve problems or to get the discouraged and the disfranchised and all those people who are just not a part of the system what is fair to them.

Of course, there were some unfortunate comments made in the past. I had hoped that when we had those breaks in the summer and the winter break, we would have been able to have done some work without being caught up with the sitting of the House and all that because there is more time, I would dare say, to do so. We were not able to do that. I presume that maybe the government felt this was not an important committee at that time. Now we have got to catch up, and that would not discourage me or my colleagues at all, to make sure it works.

The reason I feel this committee is important is that I feel the Ontario Human Rights Commission itself does not have—I would put it in this diplomatic way—the adequate resources to do it without this tremendous backlog. I do not intend to come to committee to find out which government or which party was neglectful in this. It does not matter. The individual out there will not have his case heard, will be deprived of just the worth while of living. If they work efficiently sometimes you do not get that spinoff of the job there.

I think we have very capable people in the human rights and all the other bureaucracies. However, within the Ombudsman realm it seems to me that—maybe you could educate me in this respect, as to what country and government work very closely with the ombudspople, the Ombudsman committee role, because I think governments do not like ombudsmen. Although they put it there, they feel it is one of those things that is there to be as image, to say, “We are getting things done.” It is not only that you have explained in detail the process by which you get things done; it will not work unless the committee itself supports your work and makes sure that your investigation is carried out without interference. However, there are corporations which we need here from time to time.

With your assistance, I think we can do a very effective job. When I say “we,” I do not intend to speak for the government side or for the third party, but I know that my colleague here and I intend to make sure this committee works. There are questions later on that I would like to offer. I would just like to make very plain at the opening how we stand.

**Mrs Mathysen:** Mr Chair, the government requests a five-minute recess, please.

The committee recessed at 1040.

1048

**Mr B. Murdoch:** I would like to thank you for coming here today. I appreciate what you have said so far, but as a new member and just being newly elected, I have a hard time just understanding the role of our committee and of yourself, and in your remarks I was glad to hear that you said you would give us an orientation. I think that is the



best way to go, because at this point I could only ask you questions about cases, and we maybe should not be doing that. I may be asking questions that could easily be answered, but in the way I ask them cannot be easily answered because I do not understand them.

I think that unless there are questions that are just about normal day duties, we could easily adjourn. If you would set up an orientation meeting, we could sit down and run through our role and your role, and maybe even some cases could be given to us that have happened before that this committee has dealt with, so we just understand it a lot more. At least, that is the way I feel about it.

**The Chair:** Is there a motion on the floor to adjourn?

**Mr B. Murdoch:** I would make that motion.

**The Chair:** The motion to adjourn is on the floor. All in favour? Opposed? Carried.

Just before we adjourn, Ms Jamieson, I would like to thank you for taking the time to come here and see us.

**Mr Curling:** Just one little point: We never had a little debate about it first; we just took the vote.

**The Chair:** An adjournment motion, Mr Curling, is a non-debatable motion. Ms Jamieson, thank you very much for taking your time to come to see us this morning.

**Mr Fletcher:** You are going to be setting up an orientation?

**Ms Jamieson:** I was just about to ask you. Do I take it then, Mr Chair, that I am to proceed to organize the orientation session?

**The Chair:** Please do.

**Ms Jamieson:** I would be happy to, and I invite you to my office to have a look-see and a discussion how we conduct our business, and I would be happy to answer the questions I am able to answer at that stage.

**The Chair:** Ms Jamieson, perhaps you could please direct that through the clerk, if you would not mind.

**Ms Jamieson:** Certainly. I will have my staff co-operate fully with the clerk to organize the details.

The committee adjourned at 1051.



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**Vice-Chair:** White, Drummond (Durham Centre NDP)  
 Curling, Alvin (Scarborough North L)  
 Duignan, Noel (Halton North NDP)  
 Fawcett, Joan M. (Northumberland L)  
 Henderson, D. James (Etobicoke-Humber L)  
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**Substitutions:**

Fletcher, Derek (Guelph NDP) for Mr Morrow  
 Klopp, Paul (Huron NDP) for Mr Mammoliti  
 Wilson, Gary (Kingston and The Islands NDP) for Mr White

**Clerk:** Carrozza, Franco

**Staff:** Murray, Paul, Research Officer, Legislative Research Service



The first of these is the fact that the United States has a long and rich history of research on the history of the United States. This research has been carried out by a wide range of scholars, from historians to social scientists, and has produced a vast body of knowledge about the United States and its people.

One of the most important areas of research has been the study of the American Revolution. This study has been carried out by a wide range of scholars, from historians to social scientists, and has produced a vast body of knowledge about the American Revolution and its impact on the United States.

Another important area of research has been the study of the American Civil War. This study has been carried out by a wide range of scholars, from historians to social scientists, and has produced a vast body of knowledge about the American Civil War and its impact on the United States.

Finally, there has been a great deal of research on the history of the United States in the twentieth century. This research has been carried out by a wide range of scholars, from historians to social scientists, and has produced a vast body of knowledge about the United States in the twentieth century.

In conclusion, the United States has a long and rich history of research on the history of the United States. This research has been carried out by a wide range of scholars, from historians to social scientists, and has produced a vast body of knowledge about the United States and its people.

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Organization

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Depuis deux ans, le Journal des débats était numéroté par année civile. Avec ce système, la numérotation des numéros et des pages recommençait au premier numéro de l'année civile, quelle que soit la session ou la législature.

Avec le nouveau système, la numérotation commencée en janvier 1991 s'arrêtera à la dernière séance de la Chambre et des comités de l'actuelle première session. Une nouvelle série commencera le jour de l'ouverture de la deuxième session et des sessions suivantes : numéro 1, page 1. Les rapports des comités seront également numérotés à partir de la première séance de chaque comité pour une session parlementaire donnée.

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON THE OMBUDSMAN

Wednesday 20 November 1991

The committee met at 1005 in committee room 2.

### ELECTION OF VICE-CHAIR

**The Chair:** The first business on the agenda is the election of a Vice-Chair. Do I have any nominations? Mr Murdoch, do you have a nomination?

**Mr B. Murdoch:** Yes, I do. I nominate Christel Haeck.

**The Chair:** Are there any further nominations? Seeing none, I declare the nominations closed. Christel Haeck, do you stand for Vice-Chair?

**Ms Haeck:** I move to stand, and I thank my nominator.

**The Chair:** Congratulations, Christel.

**Mr McLean:** On a point of order, Mr Chairman: I wonder why we need a Vice-Chair when the committee is not meeting. I sent you a letter back in May to appear before the committee and the committee has never met, so what would be the point of having a Vice-Chair when the Chairman is not doing anything?

**Mr Mammoliti:** We are going to be meeting.

**The Chair:** Thank you very much for calling my competency into play. I can tell you what has happened since then. We have had a lot of subcommittee meetings. The reason we have not met is that there have been no denied cases in either report by the Ombudsman. At this point, I feel obliged to invite you back next week when the Ombudsman is here. I understand you have some very strong concerns and I think you should address those concerns to her directly.

**Mr McLean:** I would like the opportunity of five minutes just to fill the committee in on the background of that file. Then you will be more aware of it when the Ombudsman is here next week.

**The Chair:** By all means, go ahead, as long as you keep it fairly brief, please.

### SIMCOE EQUIPMENT AND SUPPLIES

**Mr McLean:** This file goes back some 10 years. It had to do with Simcoe Equipment and Supplies Ltd, which had a contract with the government. The contractor went broke and the subcontractor never got paid. It was a long process. He finally got some \$27,000. About five years ago, he claimed for interest on that. It was all through the Ministry of the Environment. For a long time it went back

and forth in committee. This individual, who is almost bankrupt, needed what he thought was due to him.

The Ombudsman at that time, Dr Hill, was supportive of his application, as was the committee. There was to be an adjudicator appointed. Someone was recommended by the individual and someone was recommended by the ministry. I was quite surprised some time ago to see a letter from the new Ombudsman saying the file was closed. I thought it was the duty of the Ombudsman to make sure that people who were having problems with the process were helped out. I was very disturbed and so was the individual to find out that now we have somebody who is not acting on behalf of the little person, so to speak.

I want to raise that with the Ombudsman, but I want the committee to be aware of it because Ed Philip, when he was on the committee before, was very supportive of it, as were all the members of the committee. Michael Zacks, the legal counsel from the Ombudsman's office, was dealing with it and was very supportive of it also. I just wanted to give you some of the background of the file. It is very thick. There are Hansard reports in the file, dating back to about 1985, I think, and the legal counsel you have looking into it, Mr Chairman, will probably be providing you with some of those Hansard reports. Mr Bell was legal counsel for the committee at the time. He was dealing with it on behalf of the Ombudsman committee.

Everybody was supportive of it; the Ombudsman and the committee were. All of a sudden we got a letter saying the file is closed. I do not accept that. I believe the Ombudsman's job is to help those people who need to deal with ministries that try to get out of paying the little guy.

Mr Jack Alexander, the person the money is owed to, is in dire straits and needs this funding. I would just like the opportunity to bring it up with the Ombudsman next week.

**The Chair:** Thank you very much, Mr McLean. I am really glad you brought this forward. You and I have talked about this. You have sent me a letter about it. You know I have legal counsel looking into it. You also know the Ombudsman is here next week. By all means, please come back and address it at that point.

**Mr McLean:** Thank you.

**The Chair:** I think this is the perfect venue for that. That concludes the open session. We will now move into our closed session.

The committee continued in camera at 1010.



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Wednesday 27 November 1991

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Le mercredi 27 novembre 1991

## Standing committee on the Ombudsman

Annual reports, Ombudsman,  
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## Comité permanent de l'ombudsman

Rapports annuels de l'ombudsman,  
1989–90 et 1990–91



Chair: Mark Morrow  
Clerk: Franco Carrozza

Président : Mark Morrow  
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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON THE OMBUDSMAN

Wednesday 27 November 1991

The committee met at 1010 in room 151.

### ANNUAL REPORTS, OMBUDSMAN, 1989-90 AND 1990-91

**The Chair:** This morning we are dealing with the two Ombudsman's reports, those of 1989-90 and 1990-91. Ms Jamieson, the Ombudsman, is here. I would like to turn the floor over to her for some very brief comments, I hope, and then open the floor to the members to ask some questions. Ms Jamieson, please.

**Ms Jamieson:** Thank you. I am very happy to be able to meet with you, and I hope we will be having these occasions frequently.

As officers of the parliaments and legislatures which they serve, many ombudsmen all over the world depend on a committee such as this to carry their recommendations forward to implementation.

Your committee is unique in many ways. Unlike committees which maintain legislative oversight of specific departments of government, your committee is among those which assist officers of the Legislature—the Auditor General, the Speaker and so on—to fulfil their responsibilities. As you know, the legislative mandate which I exercise gives me strong investigative powers, but no powers to ensure that my recommendations are implemented.

When I am unable to obtain the agreement of the head of a governmental organization to act on my recommendations, I have a variety of steps I can take. I may take the matter to a minister; I may take the matter to the Premier. If the matter is still unresolved at that level, I may table a report with the Speaker for consideration of the Legislature.

I am pleased to report to you that in the last fiscal year, it was not necessary for me to ask the intervention of the Legislature regarding any unimplemented recommendations. None the less, I believe the people of Ontario take comfort in knowing this committee exists to provide them with the Legislature's support. I view this occasion, then, as an opportunity for us to pursue the healthy working relationship which the people of Ontario expect.

This is also an opportunity for me to discuss with you two annual reports, which I think you have received copies of over time. I am going to leave it to you to raise questions regarding the first, if you choose to do so, because I think in many respects it has been superseded by the second report.

This second report was tabled with the Speaker last June, and I understand it was referred to this committee. In it, I commented on the changing relationship between government and governed and the importance of the Ombudsman in serving as an early warning system of new public expectations, as well as an alarm system where there are generic problems which seem to run across government operations.

New definitions of administrative fairness are evolving rapidly. New challenges regarding such matters as openness

and consultation are coming forward. New issues are emerging—environmental land use, health priorities, just to name some examples—and in these circumstances, the work of the Ombudsman offers great potential to assist in maintaining and improving the quality of democracy enjoyed by the people of Ontario.

In my first year, I determined and set out the particular approaches which I intended to take during my mandate. I decided I would be a full-time, hands-on Ombudsman, and I restructured my staff accordingly. I was concerned about access to my services for all Ontarians, especially those least able to defend their interests vis-à-vis government and those most likely to encounter problems. I wanted to make sure my services were user-friendly.

I commissioned a survey to assist me in this regard. I created a community access and intake directorate so focused attention could be given to meeting high standards of service at the front end. I sought to improve liaison with members of the Legislature, and two senior staff members were assigned special responsibilities in this area. They are here with me today. Some of them are well known to you. With me are LaVerne Monette, who is the director of investigations and legal services, and Fiona Crean, the director of community access and intake. I will also take the opportunity to introduce Allan Mills, who is also one of my senior managers, the financial controller. He has been with the Ombudsman's office for some 15 years, I believe, and I am delighted that he is a senior member of my staff.

The staff here who were designated to deal with the Legislature participated in orientation sessions with the personnel who staff members' offices. I also set out to enhance relationships with governmental organizations so I would have their full co-operation in exercising my mandate. I have made my services available in that regard to organizations of government that wanted to bring their procedures and regulations up to the state-of-the-art standards of administrative fairness.

I might say that as a general rule I have been given tremendous assistance and ample co-operation. There are some pockets, yes, but by and large good co-operation. As you might expect, moving into a hands-on operation which meets the standards of the 21st century has meant a degree of stress, strain and tension, not to mention hard work by every level of my staff. The challenges are formidable for this organization. I have no doubt that many a reverie was devoted to thinking about more comfortable and quiet times.

Some people have left; others are accepting the new opportunities to grow professionally and to offer new dimensions of service. I am providing new training opportunities. I have no doubt that we are continuing to develop a staff which would be the pride of any Ombudsman anywhere in the world.



One thing we have had correspondence about has to do with one of the essential ingredients of ombudsmanship the world over, that of confidentiality. For people to come forward to my office without fear, for officials to be forthcoming in their discussions with me, they must have 100% assurance that their dealings with me are completely confidential. Without this assurance, many members of the public will not come forward with their complaints and government agencies will resist disclosing information to the Ombudsman.

Not only is confidentiality a keystone, but in Ontario it is legislated both for me and my staff in very broad and complete terms. The requirement to maintain confidence is so complete that under section 25 of the Ombudsman Act, neither I nor my staff can be called to give evidence in a court hearing. That kind of privileged relationship is, I believe, essential if the Office of the Ombudsman is to have the highest possible credibility with the people of the province. Confidentiality is particularly important because the Ombudsman has extremely broad powers of investigation coupled with an extremely broad mandate.

While I am bound to keep confidences, however, my clients are not. They may say what they wish, and they sometimes do. If I have not supported their complaint in the manner they might wish, I might be called upon to justify my decision, and I do so to the complainants regularly and in a fulsome fashion.

If I were, however, to respond publicly with particulars, this would require me to breach the confidence I am required to keep. That seems to me to be self-defeating, compromising my office to defend my integrity. It is natural that of the 31,000 or so people who approach my office each year for my assistance, there will be a few who are not satisfied with my findings. It is equally natural, I suppose, that when a few write to you to complain, you are really desirous to be helpful. It is a temptation which we have agreed should not be pursued except in a generic sense, and we have had conversations and exchanges in writing on this.

1020

I am pleased that the foundation which we established through correspondence last spring is that I will be forthcoming with you with respect to the practices and procedures I follow, but that you will understand and respect the requirement for me to maintain confidentiality of individual cases. In fact, I welcome and solicit your assistance in making the operations of the Ombudsman of Ontario positively world-class. There is always room for improvement. We are not perfect, and I am ready to receive your suggestions.

Aside from complaints, sometimes there is public comment. You may have seen the media reports regarding an alleged Ombudsman's report dealing with the Ontario Human Rights Commission, or even that the Minister of Citizenship has said that improvements made with respect to the OHRC followed recommendations made by the Ombudsman. The media and the minister are free to make comments, but again, I am not. I have made no comment, nor will I make any comment, even as to whether such a report exists. The Legislature has prescribed in very clear terms in my act the manner in which I am to make my reports, and I am obliged to follow that process.

There is another spin on confidentiality which I feel I really need to bring to your attention today.

Many of you may be aware that I recently appeared before the legislative committee dealing with amendments to the laws on privacy and access to information. Recently, the Information and Privacy Commissioner was asked to determine whether the Ministry of Government Services should be required to disclose a document in its files which it had received from one of my predecessors, a document which my predecessor had relied upon in arriving at some tentative findings. The document had been provided to give the ministry an opportunity to provide its comments. That is part of the usual process before the Ombudsman finalizes his or her findings, conclusions and recommendations.

The documents that were provided contained some particularly sensitive information and the Ombudsman, as a result, expressly reminded the ministry that the documents provided must be kept confidential. Disclosure of that same documentation was sought nine years later by a person who was not a party to the complaint and who had supplied no information to the Ombudsman on the subject. The commissioner released his decision in September ordering the ministry to disclose to the appellant certain portions of the Ombudsman's documentation.

This precedent is troubling to me because it could mean that third parties can obtain information from files of government organizations, information which I am required to maintain in strict confidence. In other words, information which a court cannot ask me to release, even by court order, can now be released through the Freedom of Information and Protection of Privacy Act.

I am seeking judicial review of this decision and I ask the committee to ensure this problem is corrected. I am certain this loophole is simply the result of an oversight, but until this issue is resolved I am in a spot. On the one hand, I am obliged to ensure that information provided to me is kept confidential; on the other hand, I am obliged by a section in my act to provide governmental organizations with certain information so that they can comment on my tentative findings where I think I am going to support a complaint, information which could now be the subject of an order of disclosure to somebody who is not even a party in the investigation.

I am sure you will agree it is pretty unfortunate that an officer of the Legislature should be placed in this position. As a result, I have stopped providing my tentative findings in writing. Instead, meetings are held with appropriate staff in which the tentative findings are presented verbally so the organization has the opportunity to comment, to give me whatever additional information it may have to correct something I may have misunderstood and to put forward their ideas for recommendations they could easily implement.

This is very much work in progress. These presentations are now lengthy. The material is often voluminous, complex and technical. I am very concerned that this necessary compromise in my procedure does not give the governmental organization opportunity to give careful review to my findings, conclusions and recommendations. It is also causing delays and frustration for members of the public.



Obviously it is my hope that this will soon be resolved, so I can go back to the normal fair process. I have talked to many of my colleagues throughout the country and elsewhere about this, and this occurs nowhere else that I am aware of. It is quite unusual and, I think, quite unintended. I would very much appreciate your assistance in encouraging your colleagues to recommend the changes I have brought to their attention and then to encourage the Legislature to amend the law accordingly.

In addition to the FIPPA committee appearance, I have also appeared before committees dealing with rent review, constitutional change and non-adversarial dispute resolution. My statements there are all a matter of public record. I believe they have all come to the Chair. Certainly, the FIPPA one has quite recently. I would be happy to provide additional copies if you wish.

Although it is not often that I consider it necessary to appear before other legislative committees, I will ask to do so—often they ask me to come—when it is appropriate. I also appear, as you know, before the Board of Internal Economy on a regular basis.

On the one hand, because I understand the public's expectation that my operations be conducted with efficiency and economy, I conduct myself accordingly. In this respect, the Board of Internal Economy is no problem. I am delighted to talk to them.

On the other hand, last year I had a 24% increase in case load; this was in the last fiscal year. A survey I conducted indicates that many of the persons most likely to need the services of the Ombudsman do not even know I exist. So I know the time is soon coming when I must ask for an increase which is proportionate to appropriate indices. Yes, I am aware, well aware, of the economic climate.

If there is any aspect of either one of my annual reports, any comment on my remarks or any matter you want to talk to me about, I will be glad to respond as best I can. If we do not have enough time to finish today, or if I am unable to provide the detail you would like, I would be happy to return at another time.

I hope we can meet on a more frequent basis so that a good flow of communication can be maintained and so we will have the kind of working relationship which must be present if any Ombudsman, as an officer of the Legislature, is to serve the public in resolving problems and issues with respect to the administration of their government, as is required by my mandate. Thank you. I will leave it there.

1030

**The Chair:** Thank you very much, Ms Jamieson. First we are going to deal with the 1989-90 annual report. I would like to remind the members to put their questions through the Chair, as I am keeping a list and I do want to keep things orderly.

**Mr Wessinger:** I have a very general question. I am looking at the more recent report, the 1991, with respect to the disposition of cases. I notice that almost 80% of your cases were referred—it is on page 43—and you dealt with another approximately 7.4% even though they were not within your jurisdiction. Approximately 87% of the cases that came to you were not really within your jurisdiction.

To me, that gives an indication that there is a lack of awareness among the public of what the jurisdiction of the Ombudsman is. I think that lack of awareness even extends probably to the legal community. I would like you to comment on that aspect, because I do think there is a problem with respect to the knowledge of the jurisdiction of the Ombudsman. I think there needs to be some sort of communication program to indicate what you really do. I would like you to comment on that.

**Ms Jamieson:** Delighted. First let me focus on the statistics, just to let you know that this year the total number of people who came to me with complaints and inquiries was 31,036. Last year, it was 26,357, so it is an increase of about 5,000. Of those, 18,463 were complaints having to do with the provincial government. The rest were municipal and federal—we do not have a federal Ombudsman, and boy, do we need one—and had to do with courts and private matters. Those we referred, because it is one of my policies that we turn no one away without a referral of some type. Of those 18,463, 6,843—the number on page 44, figure 3 under “Total Complaints”—had some measure of investigation conducted.

The 11,620 figure is people who were either at my door too early or were dealing with one of the provincial organizations over which I do not have jurisdiction; for example, they were complaining about the actions of a children's aid society. If they were too early, we often told them about their other avenues of appeal, because I am not able to entertain their complaint unless they have exhausted all other avenues of appeal. Those are included in the 11,620. We often tell people: “Here are your next steps to go to get your complaint dealt with. If you are still not satisfied, you can come back to us.”

Now of those 6,843 where some measure of investigation was conducted, the vast majority of those were resolved. Quite a number of those were resolved by telephone calls, which means that when you look down at figure 4 and you see the number 940—which is probably what you have been using for your calculations, Mr Wessinger—that is a misleading figure. I will tell you why.

Because of the way our system has been set up historically and the restrictions of the act, I could not record telephone calls, even though they were jurisdictional and even though they were resolved with our assistance. The act says “complaints in writing.” It is deceiving, because many of those 6,843 were complaints that were within my jurisdiction and were resolved with the assistance of my staff, but they were not in writing.

I am trying to figure out a way to remedy that situation because I think we should keep track of those things. That is a substantial part of our work. I am also looking at where we can think of creative ways to record the complaint in writing. People will call in. Often we will now take the complaint down and send it to them for signature. We are looking at ways of assisting people to get their complaints forward on the record so I can act on them and frankly so my staff can get the credit for them.

You are right, there is a lack of awareness. You are right, it is in the legal community. I have visited every one of the law schools in this last year because I have asked



every dean to give me time on his school's agenda. They have been most obliging. You are right, we need a communications strategy. I hope to be able to say something about that in the not-too-distant future.

**Mr Wessinger:** As far as communication is concerned, I think it would be useful to have a strategy to go out to the local bar associations with some representatives from your office. I think that would be very helpful.

**Ms Jamieson:** I have asked the Law Society of Upper Canada if it will give me time on the bar admission course agenda. I am trying to find those opportunities. We are also developing public education strategies for each of the districts and Toronto for the first time. Is that not amazing, for the first time?

**Mr Curling:** Thank you very much. I too want to welcome the Ombudsman for meeting with the committee. We are a pretty anxious group. We are very anxious to fully understand the Ombudsman's role and also the committee's role.

It is evident that the lack of meetings by this committee has been quite pronounced. Over the last year and a half or so we have not been able to meet for various reasons. Some are legitimate. I feel we could be a bit more aggressive in getting meetings going, because if we do not meet, we are not doing our job properly.

I just want to ask initially for some explanation. Could you elaborate on certain aspects of your report? Two reports now come to us, which somehow makes the job a little more difficult or, you could say, easier to be comparative of what is happening over the last two years, maybe going back the last three years or so.

I address my questions and ask for some of your comments on some of the things I might suggest here, especially with regard to the format itself. I found it extremely difficult to read, having looked at the first format and then taking that over to the second format to have a comparison. I found when I went back that I was lost, because the formats are not consistent. Maybe it could be consistent if I had a legal mind, which I do not think I have, in the pattern of my reading. Somehow I found it extremely difficult. Could you comment on why you changed the format from the 1989-90 to the 1990-91?

**Ms Jamieson:** It was quite a deliberate act. I was quite critical of my own first report. It is not inviting. I do not think it is as easy to understand. It is not accessible. I was determined to do something about that. This is really a first step towards what I hope will be a series of steps this office will take to make my services truly accessible. Yes, you can tell people you are open from 9 to 5, but there is a difference between that and being truly accessible.

1040

We wanted to design something that would be inviting. Mine is a little tattered. This was supposed to be a door. I do not know if it works, but it at least gets people to open the page. It has some pictures for the first time. We experimented with the type to draw the reader in.

Instead of listing departments and numbers as we did in the first report, saying for example, "The Ministry of the Attorney General had X number of complaints," which I

thought was punitive and not terribly informative, we instead said, "Gee, I think we should do some analysis of what people are worried about." So this time we list the top 12 areas in which we are getting complaints, from the most common to the least common. The most common one—they start on page 14—is wrong or unreasonable interpretation of information and evidence. The second one is delay, and so on. The last is failure to keep a proper record.

This, I thought, would be more informative, both to government organizations and to the public. It would reflect their areas of concern. We would be doing something I think we are obliged to do and not only resolve complaints and count them, but analyze, do some trend work. It is my intention to continue this.

The statistics also reflect the new approach. We tried to be a little more simplified in our presentation. We can still improve it, but it was all part of an effort to make information about the office informative, useful and accessible.

Again, it is a first step. I would be delighted to hear your reaction. I can tell you that we ordered 7,500 copies and they are gone. I have had to reorder. This was not the case last year. So I take that as a positive sign.

**Mr Curling:** I gave you my reaction: first, to say it was troubling, I would almost call it confusing, and hard to follow from one to the other.

**Ms Jamieson:** The second one?

**Mr Curling:** I was using comparatives. That is what we do with annual reports, to find out what happened when I look at the first one and then look at the second. I find it extremely difficult, quite possibly because of change.

I notice too that you have separated the French version in the 1989-1990 report. You did not mention that at all. There is French and English, or English and French, whatever you say, in the previous one. Now you have done two separate ones. If you want French, you have to ask for it. I thought the trend is that services are offered in this province both in English and in French. Did you find it more economical to separate them?

**Ms Jamieson:** Copies are readily available in French and English. Yes, we bound them separately for economic reasons. But they are readily available in both languages and indeed, for the first time this year, my report is available on audiotape as well so that others can have access.

Yes, it is probably difficult to do a comparison. If there is a particular area that you are interested in, I can do a comparison. I can give you the comparative results if there is a particular question. But, yes, I am sure it is difficult to compare, because the second report reflects the style of this Ombudsman. It is very different.

**Mr Curling:** You said it cost much less in the sense that you have separated the English copy and the French copy rather than having the English and the French together. That is the question I was asking. Is it more economical?

**Ms Jamieson:** Yes. It is my understanding that it is more economical to separate the two. That is why we did it.

**Mr Curling:** Is it possible that you could at some time give us the cost on that, to say what it would have cost to bind them together rather than having them separate?



**Ms Jamieson:** Sure.

**Mr Curling:** I have quite a few questions. I think we will not be able to finish our complete work today, and I know some members want to get on the record some cases they would like to discuss. So what I am going to do is pass now, later on coming back. I gather Mr McLean would like to speak on some matters.

**Mr McLean:** I am pleased to see you here this morning, Ms Jamieson, and you probably will be aware of the case that I would like to discuss with you. In Ombudsman's report number 11, it says, with respect to a dispute between the Ministry of the Environment—

**Ms Jamieson:** Which report?

**Mr McLean:** Number 11, on page 26 of the 1989-90 report. It has to do with the environment and a complaint over a claim of interest. The Ombudsman reports, "The complainant's counsel and counsel for the Ministry of the Environment are presently discussing the former's draft submission to arbitration with a view to reaching agreement on the terms."

I would like an opportunity to review this case, which has been in the works for about 14 years. It is a case that has been before this committee in the past and has been brought to the attention of three ombudsmen. The case involves Simcoe Equipment and Supplies Ltd, which entered into an adjudication under the Public Works Creditors Payment Act to determine what, if any, amount should be paid by the Ministry of the Environment arising out of Simcoe Equipment and Supplies Ltd's claim as an equipment supplier to Aarvi Construction Co Ltd on a construction project.

This project involved Aarvi as a general contractor, the Ministry of the Environment as owner, and Simcoe Equipment as a subcontractor renting equipment to Aarvi. In 1979 and 1982, Mr Morand, the Ombudsman at that time, recommended compensation with interest, and the ministry eventually paid the compensation but was not willing to pay the interest.

The matter of interest was brought before the standing committee on the Ombudsman, who in 1986 recommended that the parties appoint an independent adjudicator to assist in the matter of whether interest is owed the complainant. The Ombudsman at that time, Dr Hill, believed the parties involved were getting close to the end of the tunnel and that a fair and final determination of this matter was close at hand.

I was extremely concerned about a letter dated March 27, 1991, from you to the solicitor for the complainant. In your letter you state, "given the inordinate amount of time which the parties have allowed to pass since the 1979 recommendation and the fact that the responsibilities within the Ombudsman's legal mandate have been fulfilled, I see no further role to be played by me or my staff in this matter."

I certainly agree that an inordinate amount of time has passed, but it is my understanding that this lengthy delay is clearly the result of stalling tactics employed by the Ministry of the Environment in the hope that all parties would tire

of this whole matter and lose interest in seeing this claim resolved.

Mr Jack Alexander, who is here today, has lost both time and money in his pursuit of a fair and equitable settlement of his claim. The Ombudsman washed her hands of this matter just when a resolution of this claim appeared to be in sight. The apparent mismanagement of the Simcoe Equipment and Supplies claim is a sad commentary on a private citizen's uphill climb in attempting to obtain fair and equitable treatment when dealing with government bureaucracy in the province of Ontario.

It is my understanding that one of the responsibilities of the Ombudsman is to investigate administrative decisions and acts of officials of the government of Ontario, including any provincial ministries, boards, commissions or agencies.

The Ombudsman, in other words, is supposed to look out for the interests of the little guy in the province of Ontario. The Ombudsman is not supposed to wash her hands of a matter when we appear to be on the verge of having it satisfactorily resolved. There is too much time, money and effort that has already been expended only to have the Ombudsman, so to speak, walk away from Simcoe Equipment and Supplies in its time of need.

It is my hope that this committee will urge the Ombudsman to reconsider the withdrawal of her office from this matter and get on with the appointment of an independent arbitrator or adjudicator to determine what interest, if any, is owed to Simcoe Equipment and Supplies.

This case, as I say, has gone on for many years. We remember in committee, when Dr Hill was the Ombudsman and Michael Zacks was the legal counsel acting on behalf of Simcoe Equipment, that the Ombudsman recommended very strongly that an adjudicator be appointed and that three were recommended by the legal counsel of the claimant and three by the ministry. I cannot understand why one of those people was not chosen as an arbitrator to settle this claim.

It is not that great an amount of money, but the claimant has spent thousands of dollars on legal fees trying to get this to the proper authority. Now you indicate, in your letter of March 27, 1991, that the responsibilities within the Ombudsman's legal mandate have been fulfilled and that you see no further role for you or your staff in this matter.

Here we have an individual left out to dry who thought the committee recommended, and the Ombudsman recommended, that an arbitrator be appointed to help this individual, who as a result went bankrupt because of it. I just cannot understand why you have washed your hands of it. You indicated in your opening remarks that you give full details of your reasons for not wanting to proceed with a case. I would like to hear them.

1050

**Ms Jamieson:** You are quite right. I recall the letter, although I do not have it in front of me, and I recall the issue.

You are also quite right in your description of the Ombudsman's mandate: to investigate and to present findings and recommendations. That was done some years ago



on this file. I understand there was some settlement forthcoming. I also understand that there is continuing dispute over the matter of interest. Let me be clear that we are not talking about principal. We are talking about interest in this case, and that some years have gone by.

The Ombudsman is fulfilling his or her mandate by presenting a report and recommendations. I have no ability to enforce recommendations. I try to follow up and ask people what is happening when there are undertakings. But I do not have the ability to enforce anything further and there are very good reasons as to why there is that limitation on the Ombudsman's mandate. I happen to support it. I think recommendations are sufficient.

In this case, as I understand it, there were lawyers representing both sides. It was the matter of interest that remained in dispute.

I sense some level of frustration, Mr McLean, and I share it. Why is it taking years to agree on the appointment of an arbitrator? And why is the Ombudsman looked to, to pick an arbitrator? That is not part of my job. Arbitrators are appointed every day. Parties exchange lists and someone mutually acceptable on the lists is selected and charged with the responsibility of rendering a decision. I will sometimes recommend arbitration and have done so in the last year or two on a couple of files, but as for arranging it, appointing it and so on, that is a very different role.

**Mr McLean:** I do not think you or your office were asked to appoint an arbitrator. I think the Ministry of the Environment and its legal counsel, Mr Jackson, and Mr Koughan, legal counsel for the claimant, were to get together to appoint the arbitrator. I thought that was coming to a close and that they were going to agree on one, and all of a sudden we get a letter from your office saying the case is closed.

**Ms Jamieson:** That does not mean the parties cannot appoint an arbitrator and proceed. Indeed, they can do it, and I do not know why they have not. I, too, think it is incredible that this period of time is passing and now the dispute becomes interest on interest, because every year that goes by is a dispute on interest.

**Mr McLean:** Is it not the duty of the Ombudsman, once those two lawyers have been there, to appoint an arbitrator to say: "Let's get on with this. You people, appoint the arbitrator. This case has been on for a long time. I want to proceed"?

**Ms Jamieson:** That is precisely what I was attempting to do with the letter, saying: "This has gone on long enough. Why not proceed to arbitration?" Frankly, I am very reluctant that my office be looked to when I do not have the power to carry this out. I am willing to take the lumps for what we do and do not do within my mandate; I have a rough time when it is outside my mandate.

**Mr McLean:** I would have thought legal counsel within your office would have been able to phone those counsels for the other two parties and say: "Have you picked an arbitrator? I want to get on with this case." You have indicated in your letter, "I see no further role to be played by me."

**Ms Jamieson:** That is right, I did not.

**Mr McLean:** I do. I do see a role to be played by the Ombudsman to try to make sure this case comes to a conclusion by asking the counsel to make a recommendation of an arbitrator.

**Ms Jamieson:** Would you then have the Ombudsman see them through drafting terms of reference? Would you then have the Ombudsman follow up with the decision? Would you then have the Ombudsman see to enforcement? The problem I have is that the only thing I have to look at to define the restrictions of my mandate is the act, and believe me, that letter was written after a great deal of discussion, thought and search of every section of that act.

I do want to say one other thing on this. The Ombudsman is able at any time to review complaints about delay. At any time the Ombudsman can entertain a complaint from an individual about delay in government action.

**Mr McLean:** I would like to get it concluded. Would you look favourably upon a request for the legal counsel of your office to contact the legal counsel of the two parties involved to try to get them to come to a conclusion over an arbitrator?

**Ms Jamieson:** I do not know what more I can say. I think I have answered that in the letter. If both counsel agree to go to arbitration, they have lawyers representing them and they are both willing, why has it not proceeded? If they are unwilling, I cannot give them the willingness. I do not have the power to enforce going to arbitration. If there is an agreement to go to arbitration and there are counsel involved, why not proceed?

**Mr McLean:** That is right. But somebody has to ascertain the importance of it and try to ascertain if the procedures that are being followed by the legal counsel are appropriate, because they can go on and on for ever; they have, and that is the unfortunate part. Nobody has said, "Get together and appoint an arbitrator." I do not know who else would do it.

**Ms Jamieson:** Are you saying the willingness that was there is gone?

**Mr McLean:** It is pretty hard when you have a lawyer for the Ministry of the Environment who has instructed they do not want to have any part of it. He is only acting in a legal opinion from the MOE. They do not want to pay interest, so he is not going to negotiate. If you have a person who is not willing to negotiate, you cannot come to an agreement.

**Ms Jamieson:** By the same token, I fail to see how a phone call from my office outside my mandate asking them to get on with it is going to get it dealt with if the willingness is not there.

1100

**Mr McLean:** I thought the Office of the Ombudsman was to look into any complaint that has been lodged against any board, agency, commission or ministry, and one has. I would have thought it would have been incumbent upon your office to make sure that ministry is fulfilling its mandate by treating this individual who has suffered for many years unduly.



**Ms Jamieson:** Let me just say this as my last little comment on this file. It is the Ombudsman's job to investigate, present findings and a report. My predecessor did that and presented it to this committee, and the committee supported it. I am not sure if there is something further a committee might consider on this file. At some stage in the job, the Ombudsman's responsibilities are completed, unless it is a different type of complaint.

What I was asked to do last spring was to pick an arbitrator after years of parties doing what looks to me like not a whole lot: nothing. If there was no agreement between them then, how is a call from me going to create an agreement?

**Mr McLean:** I am not asking for an agreement. What we are looking for is to appoint an arbitrator and let him make the decision.

**Ms Jamieson:** Then I go back to my letter. It is not something that the Legislature has given me authority to do.

**Mr B. Murdoch:** The thing I am having a problem with here is that you have closed the case but the case is not closed. That means in all your cases you could be halfway through and if you felt you had done what you can you close out and the people who are involved are sort of left hanging, like in this case. Where do they go from there? What they should do, as I see it, is make another complaint to the Ombudsman that they have not been served properly. Is that what you are telling us?

**Ms Jamieson:** I am saying, Mr Murdoch, that at any time the Ombudsman can review a complaint on the issue of delay. I am also saying I do not discontinue my involvement in a case lightly.

In this case, my predecessor discharged his responsibilities. He saw it through to the end. This is where the Ombudsman's power is recommendatory only. The Ombudsman says, "I think this is what should happen." If they cannot get agreement from the ministry, they come to this committee and say, "I think that's what should happen; support me," and the committee then supports. At some stage the Ombudsman's responsibilities end and committee and other processes take it up, unless it in some way comes back to the Ombudsman. We often get complaints on a different aspect of an issue. That I am available to do. But after my predecessor has brought it to this committee and the committee has spoken on it, to then take it up again and see it as a personal responsibility to finalize through is not a mandate you have given me.

**Mr McLean:** The committee has recommended that an arbitrator be appointed, that there be three recommended by each party and that one be picked.

**Ms Jamieson:** I mean it is not a mandate I have in the act. The committee, I understand, is wholly supportive of arbitration in this case. I understand that. That is quite different from what I am able to do within the confines of my mandate. I would be delighted to follow a lot of these cases up and through. I do not have the power to do it.

**The Vice-Chair:** As we do have a number of other questions, could we come back to that?

**Mr B. Murdoch:** I would just like to say that probably most of the reason we are here today is to find out what our role is and what the Ombudsman's role is. This is a good, clear case for us to get into so we find out what our roles are. We are not trying to say you did not do your job; it is just that we do not know. It seems somebody has been left out there hanging. We are trying to find out where we go from here. I do not think anybody is trying to put you on the spot, but where do we go with this thing? If you want to come back to that, it is fine, but I think part of the reason we are here today is to find out what our role is and what your role is and if we can help people like this. This happens to be a good case.

**The Vice-Chair:** We have other people who are wanting to ask some questions: Mr Morrow, Ms Ward, Mr Curling and Ms Akande.

**Mr McLean:** Are they on the same issue? I would like to wrap up in a minute.

**Ms Akande:** My question is not on the specific issue but on the process that relates to the specific issue.

**The Vice-Chair:** Would you be in agreement to continue, or would you like to have a chance at a question?

**Ms Akande:** I would like to have a chance at the question that relates to this.

**Mr McLean:** I will just wrap up then. I would like to know what I should say to this individual now that his case is closed, so to speak, from your point of view. What would be his course of action now to try to claim thousands of dollars he spent, as I have said, to have his legal counsel get this to an arbitrator? The Ministry of the Environment is not seeing fit to co-operate. What does this individual do now? Is the case closed?

**Ms Jamieson:** The case that was brought to my predecessor, that complaint about the whole issue of the principal and the interest, has been investigated and a report has been prepared. As far as that complaint is concerned, the responsibility has been discharged. As far as any other complaint is concerned, I would have to look at that afresh. What you are seeing is an Ombudsman in an awkward position. I do not go around soliciting complaints. However, I am able to review complaints of delay at any time, but the role that was asked of me last spring I am not able to perform.

**Mr Morrow:** There are not a lot of times I will congratulate or even agree with a Tory, but Mr McLean, congratulations. You have brought an issue up that I think we should be addressing here about the mandate. In the last round of questioning it came up over and over again.

Referring to the 1989-90 report, as far as the mandate is concerned, you had two challenges to your jurisdiction and they were decided in the Ombudsman's favour. I think the obvious question there—I could be wrong—is what is the anticipated impact of these decisions on your workload, and do these decisions confirm your jurisdiction as far as you dealing with cases, and if not, will they change how you deal with cases in the future?

**Ms Jamieson:** I think both cases were decided within four months of my appointment. The floodgates have not



opened in those areas. I think it was a matter of clarifying what the Ombudsman always felt was his jurisdiction and a ministry raising the issue. It has confirmed the ability of my office to do its work.

**Mr Morrow:** I gather that is a really easy way to answer that. I want to thank you for answering.

**Ms M. Ward:** My question is more operational, I guess. It is about operations. I want to clarify something first. Figure 3 on page 44, the total inquiries, those are the ones that were not written complaints, so you could only provide information? Is that the correct interpretation of this?

**Ms Jamieson:** The 11,620 were inquiries that were either not within my jurisdiction—they might have been about the children's aid society; they were provincial in nature but not under my bailiwick—or were too early. Maybe it was a call complaining about a decision by the Workers' Compensation Board and we would have said to that individual: "You still have an appeal available to you to the Workers' Compensation Appeals Tribunal. After you've been there, if you still have a complaint come back to us." That is what that category includes, those two types.

**Ms M. Ward:** You had made a comment, when you were answering Mr Wessinger's questions, I think, about telephone inquiries or complaints. I realize you have to have them in writing. That is what confused me there. Those inquiries would be in there, but they are not split out?

1110

**Ms Jamieson:** In the complaints column there are 6,843; there was some measure of investigation undertaken on those. The vast majority of those were resolved and many of those were telephone calls. If they are telephone calls and settled by phone, historically we have not counted them.

**Ms M. Ward:** That is what I was not sure about, what you were saying.

**Ms Jamieson:** I am looking for a way to count them.

**Ms M. Ward:** So those would not be included there?

**Ms Jamieson:** Oh, yes, they are in there. It is when you get to the next figure that you say, "Holy smoke, why does it drop to 940?" That is why.

**Ms M. Ward:** This is where my main question was. The 940 are the complaints that you did some fair degree of investigation work on.

**Ms Jamieson:** Well, the 6,843 had some measure as well. The 940 got into the formalized process and had some considerable measure of investigation. The thing I was struck by there is that this Ombudsman puts a lot of emphasis on early resolution. Of all the cases I got, investigated through to the end and made final recommendations on only 1% got to the final end and were resolved. Even those were resolved after the final report. I did not have one file at the end of the year where my recommendations were not implemented, where the government did not agree to implement them.

**Ms M. Ward:** Do you have an idea what percentage of your effort and resources—costs, staff and so on—were expended on those 940 and what percentage would be

expended on the almost 30,000 others, if you included everything?

**Ms Jamieson:** No, I do not. I can tell you that a vast amount of my resources is on salaries and benefits. I can tell you that I am placing increasing emphasis on enhancing the role at the front end. I can tell you that for me the 940 figure is not the test.

**Ms M. Ward:** Is that a substantial volume of your work?

**Ms Jamieson:** Oh, yes. They are time-consuming, because when you get into the formal process, you are writing reports, you are meeting. Now we are doing verbal reports and so on, as I mentioned earlier. I am placing, and this Ombudsman is placing, a lot of emphasis on early resolution, even by telephone or otherwise. I am placing less emphasis on formalized—waiting until things get to the point where you have to do final reports. If we can settle them early with the co-operation of governmental organization, let's do it. I am also putting more emphasis on systemic reviews, on looking at individual complaints, doing some analysis, and where there seems to be a systemic problem, going after that.

I am also looking at ways to use my own motion capability. I can launch an investigation without receiving a complaint from the public or through a member. I can launch my own motion. That has to be done very judiciously, because we are talking about resource implications. There is a lot of potential there. I can see across all departments over 500 agencies, boards and commissions. I can see when something is isolated or widespread. If it is widespread or I think it is, to do an investigation and correct that does a terrific job of preventing the problem for the public, and I am looking at that as well.

**Ms M. Ward:** Probably what I was getting at is that people may have heard in a lot of fields either the 80-20 rule or the 90-10 rule, where 10% of your cases or whatever you might choose to call them take up 90% of your resources, and an average cost of those, but I think you have given me what you could on that.

**Ms Jamieson:** I do not have that analysis in my head. I am sorry I cannot be more specific.

**Mr Curling:** I wanted to go over an overall strategy of our role and I am going to do that, and I want to talk about something specific, but Mr McLean had a case which he brought to your attention. I will focus on that now instead of the two for the time being.

It seems to me you could have a case that reached a stage, you said, as and long as you said to the parties involved, "You should get together and speak or you should have arbitration," and then leave it there to dry, the people who complain to you feel that this case will be followed through, to a point where you then report and say, "I've asked these two to come to arbitration and there's a certain time in which I will watch and see if that arbitration takes place." If it does not, there must be a process where you report and say, "In the last six months, a year, two years, I have asked the arbitration to be set up, and it has not been done." The standing committee would hear that.



We are not speaking about an organization or an association outside the jurisdiction of this Legislature. We are talking about the Ministry of the Environment, which is part of the Legislature, which is part of Parliament, which is part of the standing committee. If you look at it in its sequence, we are the Parliament, we are the supreme power, if you want to put it that way. Then the individual who did appeal to you says, "My case should be redressed," and then is told, "No, I've told these two parties to speak, to get somebody who is neutral to do the job; my hands are washed." On the other hand I just heard you say, "What a challenge I have, to see discrepancies in the system and to investigate them." I feel that is rattling the cages and when the animals start fighting you run away and say, "Well, I just want to tell you that there are discrepancies here, and if you want to fight among yourselves, if you do not want to resolve them"—the people would say, "Why raise the issue then?"

There are two scenarios I am throwing out. Those who see the injustice come to you because you are the Ombudsman and then expect something to be followed through, and feel that if you are not getting the response you should get that there is a process, because the process is there. It is there for the standing committee to say, "I have done this." I hear you say, "Sometimes I need support, I need you to support my recommendations," but I did not hear that coming through from that case here saying: "I have done this and the standing committee is neglectful. We can call this minister and the ministry. We want the minister to be accountable."

**Ms Jamieson:** Perhaps I should go at it this way. In many ways, my office is a non-binding arbitrator with investigative powers. I get a complaint. I take a hard look. I am independent. I look at both sides. I come up with a conclusion. That was done by my predecessor in 1980 or whatever it was on this case. The report was put forward to this committee. It is there that the Ombudsman says, "Committee, I need your support because I haven't been able to get these people to listen to me." The committee makes a resolution. It becomes the committee's recommendation as well.

Now in this case, am I being asked to enforce the committee's recommendation? I have a question. What is the committee's role once I have discharged my responsibility and I have said my predecessor says, "Look, I've done the best I can; now I need the political forum to come to bear," and bring it to standing committee? The committee passes a resolution and then what happens? Then we look back at the Ombudsman, who has discharged the responsibility, to enforce the committee recommendation? I do not have that power. I do not have that relationship with this committee.

My predecessor did the job he was asked to do. It is not a matter of washing my hands of it as though it were a deliberate attempt to get out of it, or coming to the committee when I want support, or rattling cages and running away when I get the attention.

One thing you know about me, Mr Curling, is that I am not somebody who runs away when the times get tough. I

can get tough too, but I want to make sure I am on firm ground in my mandate.

1120

**Mr Curling:** I fully appreciate that and you said it very well. You have described yourself very well, how I understand you to be, and I think this Legislature understands you to be that way.

You then say—and I understand that and I think the committee must take that very seriously—that your powers are limited in certain respects. It may be necessary for us to change that maybe, to get, if you want to call it that, additional powers in order to advance the cause or to get the matter resolved. That is one aspect of it. Then you may say too, "Even if you even give me the power, we need the funds or resources to go with that." I am hearing that first you do not have that power.

**Ms Jamieson:** Right.

**Mr Curling:** If you are given that power, do you have the resources?

**Ms Jamieson:** At the expense of other—looking at complaints coming in the door. You said something earlier, Mr Curling, that if I were to come back and complain about a ministry not implementing something after it has been through committee, then I could call the ministry. Does the committee not have the ability to do that on its own initiative once it has passed a resolution? Maybe the Chair can answer. Can you not, at this stage, call back a ministry and enforce your resolution?

**The Chair:** I will put that to the clerk.

**Clerk of the Committee:** If I may, it would depend on the resolution set, if the committee had recommended that both the ministry and the individual have arbitrators and proceed to a conclusion. In this case my understanding is that the Ombudsman was asked to provide for an arbitrator if that particular part was not carried.

**Ms Jamieson:** I do not think so. I beg to differ, but maybe we have a record of it; have we?

I am told the parties were asked to go to arbitration in the resolution, and there was some informal understanding that the Ombudsman may be available to pick, once the parties had a list, and if they could not pick. My understanding is that the parties do not even have an agreed-upon list. I also emphasize that was an informal undertaking and, as I understand, that was not part of the resolution.

So I return to my question. Can you not call the ministry? I do not know how the committee follows up on its recommendations, its resolutions. Maybe you can enlighten me. How do you do that? I know where my limit is but once it gets to you, then what happens? Maybe you can help me on that.

**The Chair:** I will ask our legal research to answer that. Paul Murray, if you will.

**Mr Murray:** We do follow up the recommendations we have made. In fact, in this case we did follow this up to find out what the current status was of the arbitration. Our responsibilities are to report eventually on our review of your reports and our other activities. In doing that, we got



some of the information in terms of what had gone on in the history of this.

Our understanding of it, in terms of what you have just said, in terms of what the parties agreed to and what the role of the previous Ombudsman had been, is that in January of 1989 the then counsel for the Ombudsman—

**Ms Jamieson:** Before my time, yes.

**Mr Murray:** Yes, just before your time, though.

**Ms Jamieson:** I was appointed in October.

**Mr Murray:** Of that year. But just in terms of the way we have been discussing this particular case, we have been talking about numbers of years. It is about seven or eight months before you arrived.

In January of 1989, that counsel wrote to the solicitor for the complainant in this case and indicated at that time that the Ombudsman was prepared to play this role in selecting an arbitrator in the event that the parties were not able to agree on an arbitrator. It was on that to which the parties agreed or relied in proceeding. I just wanted to clarify that point. I do not know if you want to respond.

**Ms Jamieson:** I am sorry, I cannot respond to something that happened before my time and was done on a discretionary basis. As I said, I looked long and hard for the mandate within my act and I do not have it, but I ask again. What I did not hear was the—perhaps I was not listening as closely as I should. Does committee then have the ability to call ministries before it to see to implementation of their recommendations?

**The Chair:** I can give you a really short, quick answer. Yes, we do.

**Ms Jamieson:** I see.

**Mr Curling:** It is my understanding that is the case. As a matter of fact, it is just like asking a minister in the House questions and if it is not resolved you can keep asking the question. I think the committee has that because we are the Legislature, if you want to call it that. We are the Legislature.

Maybe this is opening up something that may be of help to you in regard to the other ministries. Would you say you get favourable response and co-operation from the ministries? Could you tell me which ministry you would regard as an extremely co-operative ministry? In that sense, if you are struggling to find any one, or maybe you find them all, which one would you consider not co-operative? We see the Minister of the Environment stopping in the middle of things here. We are not quite sure if it is co-operation, stalemate or whatever the case would be, but I wondered if you could tell me which ministry gives you the most difficult time?

**Ms Jamieson:** Let me answer it this way. When we were writing this report, I thought it would be a dynamite idea to give gold stars to the best and words of encouragement to those who needed words of encouragement. I got into quite a dilemma about the criteria you use. When I ended the year there was not one case that I could not get recommendations agreed upon. By and large I got co-operation from most everyone, at different levels perhaps. In some cases I had to go higher to get co-operation but,

nevertheless, I think my office enjoys the co-operation of virtually all ministries.

There are some notable exceptions but here again it depends on what the issue is and on what level you are dealing. Ultimately, I have co-operative relationships so I ended up not doing gold stars because we thought: "Okay, how will we do gold stars; the one we have the least complaints about? The ones who take the least time to resolve? The ones who are more forthcoming, or the ones who come to us before there are problems and ask for our expertise in a particular area? How do you judge? What are the criteria? I am still struggling with that.

**Mr Curling:** Maybe I can help you here. Let me identify a ministry or an agency: the Ontario Human Rights Commission. You had written to them with regard to some concerns you have. From the committee's point of view it is understood that they did not respond in time. Having not responded in time, you then had to write to the Premier and say: "I have written to this agency or this ministry and have not gotten a response within a certain time. Could you get a response from them?" This is a real case I am sure you are quite aware of.

Would you say this ministry or this agency did co-operate although it was late? Why were they late? Why would you say they took so long to respond to a case? Of course, you said earlier that a report exists. I do not have to deny or accept the fact that it exists, but that is okay. We know it exists because if it did not exist you would not then ask the Premier for some response or process they should follow to clean up some of that really bad backlog there and some of the administrative process they should deal with. Would you regard that agency as a co-operative agency?

1130

**Ms Jamieson:** I am going to answer this question with the caveat that I have outlined in my opening remarks. I have probably the strictest confidentiality rules out there. I think they are terrific, I am quite comfortable operating within them and they are important. I am therefore not going to respond on the particular that you put, but I will respond in the general sense.

If a ministry or governmental organization is not co-operating, I call it for what it is and I call it to the attention of a deputy. I would call it to the attention of a minister and I would call it to the attention, beyond that, perhaps all the way to this committee if I was not getting co-operation. I do not hesitate to do it where there is a good case to be made. I try every which way to get co-operation and where I do not get it I call it, and I am pretty frank about it.

**Mr Curling:** But then you ask us to support you.

**Ms Jamieson:** On what?

**Mr Curling:** On recommendations or a resolution that you made before.

**Ms Jamieson:** On the cases I will bring before committee, yes.

**Mr Curling:** Yes. The best way this committee can support you—and of course we are quite mindful of the fact of confidentiality. I get that every day, every time I ask for some information for my office. You know the deal



where they tell me I should go through the freedom of information. I have a difficult time with some ministries, let me tell you, in getting the information. Sometimes, of course, I would then say, "I will ask the minister in the House," and I get a little quicker response in this.

As you come to us as an agent or officer of the Legislature, and the supreme power of the standing committee, I would tell you that you have my full support to assist you to carry out some of your duties. It is a difficult role. Therefore I would ask of you—I do not want to say level with us as far as possible, but to give us as much information as possible so we can carry this through.

Of course, I understand the frustration of my colleague Mr McLean about this and I understand your frustration. It seems to me there is a bit of—not confusion, but somehow that the whole process is not known, that we hear you recommend an arbitration should be done. If we know precisely what is to be done and we are not getting it that way, then this committee can go to the minister and maybe call the minister before the committee and say: "This is what is happening. We want to know why it is not being responded to."

**Ms Jamieson:** You have asked me to give you as much information as possible. I will endeavour to do that and as I also said in my opening remarks, there is a process I have to follow to do that. I have to do it by report through the Speaker. I am really determined to report as many cases as we can, and my staff behind me will grow weak, but I am looking for ways of doing even more frequent reports. I do not think it is right to save it all up till one report at the end of a year. I would like to do something more frequently and we are looking at how that can be done. I will give you as much information as possible, but I also make this pledge: I respect this committee, and when I come to you with a case I want to be able to say to you, "I have tried; I have hit all the benchmarks trying and I need your help." I want to be able to say that.

**Mr Curling:** What is the average length of time for a response from the ministry? If you do not have that statistic, maybe it could be brought to us at the next sitting. I would like to know because we get a lot of complaints. When I say "we," members of Parliament would say they feel frustrated with the system.

My real concern with this process is that we have laws that are supposed to serve us all but somehow, in some way, these agencies and ministries do not seem to be able to facilitate that service in a way people feel good about.

We have backlogs everywhere: at the Workers' Compensation Board, the Ontario Municipal Board, the Ontario Human Rights Commission and the courts. As a matter of fact, you know they are throwing cases out. I feel that justice is not being served, it is just completely denied to people who have waited years. You said you have no backlog.

**Ms Jamieson:** As a matter of fact, I confirm that on a regular basis.

**The Chair:** Mr Curling, if you would not mind, Ms Akande has a question she would like to place.

**Mr Curling:** I will step down for Ms Akande.

**Ms Jamieson:** Do you want me to respond to the question he put about how long it takes for ministries to respond?

**The Chair:** Please, if you would not mind.

**Ms Jamieson:** We request responses usually in three weeks for ministries. I cannot tell you what the percentage success rate is, but it is substantial. I will have a look at that, Mr Curling. Where I do not get it, I have signed off letters to ministers and deputies complaining that I have not got it.

**Ms Akande:** I am sorry to have to leave. First of all, I want to commend you on the new report, because it certainly is much more readable and attractive to those people who need to know most about the services you provide. While the other report is efficient, it certainly would not attract the regular reader and that is what we are trying to do.

There were certainly interesting questions raised by the case there, but I am more interested in the general than the specific. If I can carry Mr Curling's analogy a bit further, I might say to him and to you that we are suffering somewhat by an absence of the distinction of tense in that it was the previous lion tamer who rattled the cage and left it to the current one to respond to the cry of the animals. There is a problem about link and the assumption of responsibility.

There also seems to be some kind of problem about the mandate of this committee and its feelings of comfort in assuming the responsibilities of that mandate. I trust a request to review that mandate and also review the mandate as stated by the Ombudsman would be helpful in recognizing where the responsibilities of the Ombudsman end and ours begin. Within that, I want to refer to this review, this question.

One of the statistics pulled out of your report is: "that in all 35 cases in which the Ombudsman made a formal recommendation to a governmental organization the organization agreed to implement the recommendation. This compares with the previous year when 19 formal recommendations were made and six were denied."

You are saying the statistics are considerably better in terms of governmental organizations responding appropriately to your requests. Would you define for me in a very general way what you would include as governmental organizations?

**Ms Jamieson:** Yes. In the record last year I did not have one case to list as what we call recommendations denied. They were all accepted and agreed upon for implementation.

Let me also say that if it is a recommendation I have not had to bring to committee, and if government agrees to implement it—say there is a difficulty with a procedure and I suggest they review it and amend it and they undertake to do that. I do not leave it there. I say, "Okay, terrific, now I want to see it when it is done." I BF it, bring it forward. I follow them and I dog them at that stage. I follow up on those recommendations. That is when I have had a success and the government has agreed it is going to do something. That is a case I have not had to bring to committee.

You asked me about governmental organization. There is a legal case that sets out the test that has to be met by an organization to be a governmental organization. It has to have been appointed principally by order in council. There



are three parts to the test. I would be happy to provide that to you. It comprises all ministries, and at last count, 532 agencies, boards, commissions and tribunals in this province, from the Ontario Human Rights Commission to the Ontario Police Commission, the Ontario Labour Relations Board, the Workers' Compensation Appeals Tribunal and the Social Assistance Review Board. I am sure there are many names; there are 532 of them. I am not ashamed to say I continue to discover the breadth of the 532 and to learn a lot about this province as I do. If you would like the specific test that has to be met, I am delighted to provide that to you, but I would like the case in front of me. I would not want to just give you that off the top.

1140

**Ms Akande:** I would request, through this committee, that I have that specific test.

The other thing that interests me, and this too is pulled out of your report, is the Ombudsman mandate clarification, the second case, where a divisional court decided that the Ombudsman has the authority to investigate the actions of public servants carrying out their duties under the authority of an order in council. In that, the minister is the person responsible for the conduct of the ministry. How is that separated? How are the minister's actions in relation to that public servant separated, given that the public servant could be a deputy minister? Or are they?

**Ms Jamieson:** I can review the actions or inactions of government administration at all levels up to the cabinet door. What goes on in the cabinet I am expressly prohibited from reviewing. When the cabinet door opens again and a decision comes out, I then can review the implementation. So up to the cabinet door and coming out of the door, yes, but in the room, no. As for ministers, in terms of inappropriate decision-making, the inadequacy or alleged inadequacy of advice presented, for example, by a deputy to a minister, allegations of bias, I can look at those kinds of things. We are talking hypothetically. It goes right up to the cabinet door.

**Ms Akande:** Who assumes the responsibility in the event that you find the actions are in error?

**Ms Jamieson:** Hypothetically speaking, if a deputy or a minister were involved, whom would I make the report to?

**Ms Akande:** Yes.

**Ms Jamieson:** If it is a deputy, it is easy. If it is the minister, I guess there is only one place to go.

**The Chair:** Just before we move on to the next questioner, I have a clarification on something Mr Curling was dealing with. The previous Ombudsman supported the notion of electing one of the six nominees as the arbitrator, and you have chosen not to do that. I guess what I am asking is, is continuity from one Ombudsman to the other not of vital importance?

**Ms Jamieson:** Absolutely. Appropriate discharge of the mandate, consistent action within the terms of the act is a hallmark of this office.

**The Chair:** Okay, so now where the previous Ombudsman voices concerns to elect one of the six nominees to help in this case, you have overturned that. I guess that

is a problem I am having, because the continuity is important, then all of a sudden it is not happening.

**Ms Jamieson:** What you are referring to—with respect—is what I gather was an informal offer delivered on a discretionary basis. I am not in a position to criticize; indeed I have never exercised any of my predecessor's discretion. It is for me to exercise my discretion when I am sitting in the chair, and I look to the four corners of the act. The resolution itself, if I can remind you, does not refer to my office specifically. As I understand it, there was an informal offer.

**Mr Curling:** A point of procedure: I just wondered if the staff could come and sit with the Ombudsman. If that could be done, there is no problem with that.

**The Chair:** That is up to the Ombudsman.

**Mr Curling:** I just thought maybe the recommendation or the suggestion should be made.

**The Chair:** The offer is open.

**Mr McLean:** I have a supplementary, Mr Chairman, on the very question you have asked.

There is a paragraph in a letter from the Ombudsman to Mr Khougan, who is the solicitor for Simcoe Equipment and Supplies Ltd: "This is to confirm my recent telephone conversations with your secretary regarding the above."

**Ms Jamieson:** What is the date of this, Mr McLean?

**Mr McLean:** December 17, 1990.

**Mr McLean:** "The purpose of my call was to acknowledge receipt of your letter of November 1"—which was sent to your office—"to ask for clarification as to the name of your client (our material having been filed under a different name), and most importantly to inquire about the 60-day time limit contained in paragraph 4 of the submission for arbitration attached to your letter. The paragraph states that the Ombudsman may select an arbitrator within 60 days of being required to do so."

"Mr J. Jackson, solicitor for the the Ministry of the Environment, has advised me that this time limitation is not rigid."

The correspondence from you that I have reviewed here indicates that six people were chosen, three by each side, and the Ombudsman was to make a recommendation.

**Ms Jamieson:** I do not have the letter that you are referring to. Is that signed by me?

**Mr McLean:** No, it is signed by counsel Barbara Casson-Robin.

**Ms Jamieson:** I do not have that letter in front of me; it seems to refer to an agreement that was made between the parties, which I am not a party to.

**Mr McLean:** I have a letter here, Mr Chairman, from Mr Khoorshed, legal counsel for the MOE.

"Susan Ficek of our ministry has written to you on September 4, 1990, in particular, suggesting that you advise the Ombudsman arrange to have an arbitrator appointed."

**Ms Jamieson:** I understand that the parties were anxious for the Ombudsman to be involved. I do not think that is in dispute. The problem is, where is the responsibility? It is my view that the responsibility of my office in this

matter was discharged when the report was provided to this committee, your predecessors, by my predecessor.

I come back to the fact that the parties can go to arbitration tomorrow if they so wish. There is no magic in the Ombudsman and there is no power in the Ombudsman to affect the arbitration. I come back to my question of the committee's role in seeing to the implementation of its recommendation and its resolution.

**The Chair:** Thank you very much, Mr McLean. Mr Mammoliti.

1150

**Mr Mammoliti:** First of all, I would like to apologize for walking in a little late. I was tied up in my riding. Something came up, and I kicked myself because I wanted to be here for 10 o'clock.

There are only a couple of questions I wish to ask you. The first one is, I understand that you had initiated some changes in your office. Were the changes for the better in terms of efficiency? Is the staff happy? I mean all staff, from the bottom up. Before I ask anything else, maybe you could just answer those two.

**Ms Jamieson:** I am delighted to have the question and I too am sorry you missed the first few minutes, because I did speak about the changes. I might ask you when you have a moment in your busy schedule to have a look at my comments.

Yes, there were some changes made. Yes, there is a different approach in the office. Yes, this office is, as I am sure all of you are, under significant positive pressure by the changes that are going on out there around us.

There is a big gap these days between the public expectation and what they feel is being delivered. I have had a hard look at my organization and what we need to do to lessen that gap in so far as my office is concerned.

Yes, there have been some changes. Yes, there has been some reorganization. One of the things I did is a wholesale review of all the salary levels. We had a job evaluation done throughout the office. I have done some of those tests which involve the entire office.

Are staff happy? I think it would be an overstatement to say that staff are delighted. I think that would be true of anywhere. Do we have our growing pains? Absolutely. Do I have ways of dealing with staff unhappiness? Absolutely.

One of the things my predecessor left me with, which I am very grateful for, is a formalized grievance process so that staff can raise their concerns and have them dealt with.

**Mr Mammoliti:** Is that grievance process working?

**Ms Jamieson:** As far as I am aware, it is working, yes. Is there something specific you are concerned about?

**Mr Mammoliti:** No, I am just asking you some questions. If there was something specific, I would tell you. I am just asking you some questions.

In terms of consultation, was there any consultation with staff before you did these changes?

**Ms Jamieson:** One of the things I did when I first came in was to sit down and meet every manager in my organization for an hour to an hour and half and ask them what they thought needed to be done, what were their ideas.

One of the things that came out of that was they felt very strongly that there was a need for a mission, a goal, a statement to be articulated. I then set about meeting with every member of the staff in groups. The product of it is in this report. It is a mission statement which sets out the agenda for this organization. It is an ideal. We are not there yet. It is going to take some more work to get there. All staff had ample opportunity to have input.

One of the things I am very conscious of is that you cannot go about criticizing others if you do not look in your own backyard. We are not a perfect organization. I look in my backyard every day and I am not always happy with what I see, but we are trying.

**Mr Mammoliti:** The other question, very quickly because I do not have much time, is something frankly that I am a little concerned about. I sit on the subcommittee which sits periodically, along with the Chair. Recently we had asked the Chair to write you a letter and asking you to explain some specifics of particular cases to us. You may remember that letter.

**Ms Jamieson:** I do.

**Mr Mammoliti:** When we got the letter back, I was a little disappointed in seeing that it was somewhat general. It did not get to the specifics. Why was it not specific?

**Ms Jamieson:** I tried to deal with some of these issues in a brief opening statement I made. Last spring, some of you will recall, we had a very useful discussion on the relationship between committee and Ombudsman, specific to particular cases. We established an understanding, which is in writing. I am well aware of and welcome the committee's role as set out in the act in setting guidelines and making rules, as it sees fit, to guide the Ombudsman's discharge of the responsibilities.

Where complaints that come to you from people who are obviously dissatisfied with my activities will assist you in that role, that is terrific. I am delighted to discuss with you my processes, how I handle complaints, how I investigate. I have been doing that in responding to the letters. But when it comes to the specific case, I am not able, because of the provisions of the act, to discuss the particulars. The rules of confidentiality are very stringent. If I were to do so I would be breaching the act to justify the credibility of my office, which does not quite make sense.

That is why I said yes, here are my processes. On the particular areas or questions you are concerned about, I will be more than forthcoming, but when it crosses into the area of a particular case, the committee has been very clear over the years in saying it will not be a court of appeal on the Ombudsman. I respect that.

**Mr Mammoliti:** I am not too sure I agree with that.

**The Chair:** Mr Mammoliti, can I ask for a clarification from the Ombudsman just for a second. You referred to a written letter of understanding we have. Can you please clarify that?

**Ms Jamieson:** There were two exchanges that were in writing which I can get; I did not bring with me. I gave a written statement of my understanding, the committee also responded in writing and I responded again in writing. I cannot give you the dates off the top of my head, but those



are on all our records. Then we had an excellent discussion where the committee was kind enough to come to my office and we met in the boardroom.

**Mr Curling:** Mr Chairman, it is 12 o'clock.

**The Chair:** It is getting very close to 12 o'clock. Mr Mammoliti, could you please wrap up very quickly.

**Mr Mammoliti:** I think most of the committee members would agree to extend it perhaps five minutes. These questions are important to me and I do not know when I am going to get the opportunity to ask the Ombudsman any more questions.

**The Chair:** I can probably solve that at this point by asking the Ombudsman to come back next Wednesday morning at the same time. There are a lot of questions we would like to continue asking you. As Mr Mammoliti pointed out, he has some very important questions, and we feel it is very important that you appear here before us.

**Ms Jamieson:** As do I. I am delighted to come back and I think that is not a problem for next Wednesday. I have looked behind me and it looks like whatever we have we can deal with, and I would be delighted to be here next Wednesday morning.

**Mr Mammoliti:** I am not sure I agree with that wholeheartedly. I came into this job fresh. I came into this job trying to relay the concerns of the public, and I am not sure that the public does not want this committee to have a bigger role. It is important to me to know where you stand as the Ombudsman and where you think our role stops. You have been pretty clear. I think you will agree that you are not prepared to give us specifics on cases; you can answer them generally, but it is not your role to be specific with this committee. Am I right?

1200

**Ms Jamieson:** If I bring to you a case that we have not been able to solve, then absolutely I will give every specific because you will require it to decide on the measure of support.

**Mr Mammoliti:** But in terms of the ones you have resolved and made a decision on, and if we are asking you questions?

**Ms Jamieson:** About on what basis I made my decision?

**Mr Mammoliti:** On any basis. You said earlier you wanted our support on your decisions. This is important to me. If I am to give somebody some support, I am going to need the specifics of the case and not a generalization.

**Ms Jamieson:** I am not sure whether next Wednesday is the time, but this might be helpful. One of the things we did when we were in the boardroom is we went through the process from beginning to end, what happens when there is a case not supported by the Ombudsman and what happens when there is a case supported by the Ombudsman, and how does the committee relate to that process. We went through that. That might be helpful, because that is what I would go through to explain it.

**Mr Mammoliti:** I want to go one step further. If we are going to work together in the future hand in hand, I

would suggest that maybe next Wednesday we can talk about the role and we can talk a little bit about our own opinions as well as to where we want to see the committee going and whether the Ombudsman agrees. If she does not, then we are going to have to talk about the process and where we want it to go in the future perhaps. That is something I would suggest.

**The Chair:** That is very fine, Mr Mammoliti. Is that the end of your questioning?

**Mr Mammoliti:** Yes, providing you agree.

**The Chair:** I do not have a problem with that. That is up to the members.

**Mr Curling:** I want to tell the Ombudsman that next week I will be asking her about staffing and resources, the French-language services and also the native programs and other extended programs. I wanted to say that so we are all prepared.

**Ms Jamieson:** I appreciate that.

**Mr Curling:** We can then address my questions and your responses.

**Mr McLean:** On just a short point of order, Mr Chair: I have copies of some of the Hansards and correspondence I have been referring to today. I would like to give you copies of it and perhaps next week you may be able to have your staff review it and give me a short résumé of what your opinion is.

**Ms Jamieson:** I am delighted for the notice, Mr Curling. I will be as prepared as I can on those subjects. I recall our discussion on relationships and roles last spring. If you want to have another frank discussion about it, I am delighted to do that again. I see some new faces on committee, and if that is the wish of the Chair I am delighted.

**The Chair:** Before we close, Ms Jamieson, there are two things I would ask. Mr Mammoliti talked about a grievance procedure. Could we possibly see your grievance procedure? Also, you talked about a letter of understanding between this committee and yourself. Could you possibly bring that next week?

**Ms Jamieson:** I talked about an exchange of correspondence and my own statement. Does the clerk not have that?

**Clerk of the Committee:** Yes, we have that, but you mentioned a letter of understanding. We have the correspondence.

**The Chair:** You mentioned a written letter of understanding. We do have the correspondence, but we do not have that letter.

**Ms Jamieson:** Is there some concern that it does not exist?

**The Chair:** No, not at all.

**Ms Jamieson:** I am sure it is in the record.

**The Chair:** Can I ask legal counsel to speak on that?

**Mr Murray:** Our question is not that we do not have the documentation—I am sure we do—but that since you were not able to refer to the dates in the specific correspondence you were referring to, if you could specifically refer to those dates we can look through our correspondence and

obtain them and take a look at them. We just were not clear in terms of what you were referring to.

**Mr Mammoliti:** In terms of the grievance procedure—it is an excellent recommendation, by the way—I would like, if possible, for the Ombudsman to be as specific as possible. I realize it is probably confidential, but it would be nice to know the statistics in terms of the grievance procedure perhaps over the last year, how many grievances have been settled and how so.

**Ms Jamieson:** I am a little confused. I am a pretty frank person. I am interested in talking to the committee and so on, but I would like to understand the areas of concern so that I am best able to respond to them. You are right, there are many things in my office that are confidential, and it would be at my discretion to make a decision on the sharing of such information. In order to exercise that discretion, I need to understand why.

**Mr Mammoliti:** I have always been an advocate of a grievance procedure. Perhaps you know I come from the labour movement. I believe, personally, there should be as many grievance procedures as—I see my colleague laughing across the room. I believe there should be a mechanism in place whereby staff could get their differences resolved,

and this is an excellent way of doing it. If it is working in your particular area, it would certainly make for a project for the rest of the ministries or agencies that do not have one in place.

In terms of understanding how it is working, I would like to know how efficient and how effective it is. We are not asking for names, we are not asking for dates; we are not asking for any of that stuff. We are just asking for the particulars, not specifics, in terms of the statistics: how many, how effective it has been, how many have been resolved, the decision itself, if possible, in terms of a negative or a positive one and that sort of thing. That is something I would like next week as well, if possible.

**Ms Jamieson:** I will certainly take that into consideration when I come back next week. I will be prepared to speak to your request at that stage. I would like to have a really good look at it. I appreciate your comments.

**The Chair:** Thank you very much, Ms Jamieson. Seeing that it is past 12 o'clock, I will adjourn and ask that we reconvene next Wednesday morning at 10 o'clock in the same room.

The meeting adjourned at 1207.



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### Standing committee on the Ombudsman

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### Comité permanent de l'ombudsman

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Clerk: Franco Carrozza

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON THE OMBUDSMAN

Wednesday 4 December 1991

The committee met at 1009 in room 151.

### ANNUAL REPORTS, OMBUDSMAN, 1989-90 AND 1990-91

**The Chair:** I welcome everybody to the standing committee on the Ombudsman. I am the Chairperson, Mark Morrow. We are continuing our discussions this morning on the Ombudsman's reports, 1989-90 and 1990-91. We have the Honourable Roberta Jamieson here. Now I would like to open the floor for discussion again.

**Mr McLean:** On a point of order, Mr Chairman: I would like to ask the Ombudsman if she has a report with regard to the issue I raised last week. If she has, I would like to hear from her at this time. I have another committee I am supposed to be at and I just thought I would pop in this morning to find out if the Ombudsman had a report.

**Ms Jamieson:** Thank you, Mr McLean, and to the Chair for the invitation to come back this morning. Good morning, bonjour, sago, in my language. I am delighted to see you all.

I made a number of undertakings at the last meeting which I would like to discharge at the outset. I can do them in whatever order you wish. We can start with Mr McLean's question, if that is the Chair's pleasure.

**The Chair:** Please do.

**Ms Jamieson:** Mr McLean was kind enough during the meeting last week to give me copies of materials, which I have reviewed, and I have done some further homework on this subject. I have reviewed Mr Morand's report of 1982. You will be interested to know the Ombudsman's report of 1982 followed an earlier report of 1979. This case has been going on for a very long time. I also had an opportunity to review a number of reports the standing committee on the Ombudsman has made on this subject. The most comprehensive one is the 16th report of 1988, where the standing committee itself recounts that it has raised this matter in its 15th report and its 13th report as well.

I have determined that the standing committee passed a resolution which adopted a recommendation, first to support the Ombudsman's findings and conclusions in the case and then to support the appointment of an independent adjudicator to assess whether interest is owed to the complainant. Remember, the Ombudsman had already reported that not only is the principal due, but so is the interest.

Thereafter the standing committee, as I understand it, encouraged the parties to finalize this matter as quickly as possible and in fact recalled the deputy minister of the Ministry of the Environment on one, if not two, occasions to ask why it had not yet finalized the issue. I also understand there was some informal involvement by the Office of the Ombudsman to assist in this matter.

I am also aware that in the draft terms of reference which were prepared, section 4 of that draft outlined a role for the Ombudsman in which the parties may request and the Ombudsman may respond to the request positively in the appointment of an adjudicator. In other words, the Office of the Ombudsman, after the report was tabled to the standing committee, where the findings were made clear to committee, had no further formal involvement. There was some informal involvement on the part of my office, and the parties included in their draft terms of reference, to which the Ombudsman's office was not a party, an opportunity to ask the Ombudsman to participate further. That has occurred. I have responded. Mr McLean has referred to the letter in which I responded to this matter.

I have reflected a good deal over the last week. I feel that the role of the Ombudsman in this matter was discharged not once but at least twice on this case and was put squarely before the committee. The Ombudsman at this stage has no powers to enforce the committee's recommendation that this matter proceed to arbitration. The Legislature has not given me the powers to enable me to make sure that any ministry fulfils its undertaking to this committee. If a ministry does not want to go to arbitration on an issue, I have no power to force it to do so.

I can only say again that I was struck by the fact that we discussed last week whether the ministry could indeed be brought before committee. I found that not only could they but they had been on more than one occasion. I leave it to the Chair and committee to determine what further course of action you wish to take on this subject.

**Mr McLean:** Thank you for your report. I would like to indicate that this individual has been through hell, so to speak, over this long period of time. He is just an ordinary individual, and I really feel sorry for an individual who has gone through what he has to try and get what was fair and right. I do not think we should leave any stone unturned to make sure that happens.

While I agree with the Ombudsman that there is no way she can make a ministry do what it does not want to do, I believe the committee, with the direction approved by the Legislature, can determine whether the ministry will co-operate or not. I urge the committee to perhaps instruct our Ombudsman to proceed by appointing an arbitrator, if at all possible. There were three recommended by each party, three by the Ministry of the Environment and three by the individual, and I urge you to ask her to pick an adjudicator to proceed with the settlement.

**The Chair:** Thank you very much for that suggestion.

**Ms Jamieson:** Would you like me to fulfil the other undertakings I made for information?

**The Chair:** Please, I would appreciate it.



**Mr Curling:** I am not quite clear on the instruction of the committee here, whether or not, as Mr McLean asked, the committee will instruct the Ombudsman. Is that what I am hearing?

**The Chair:** What you are hearing is a member who is not a member of this group making a suggestion that we take it up at some later date.

**Mr Curling:** So it is not a motion, it is just that a member has mentioned something.

**The Chair:** That is right. Do you wish to make a motion on that, Mr Curling?

**Mr Curling:** Let me say it this way then. If you want me to make the motion, I will, but Mr McLean may want to make the motion himself.

**Mr McLean:** I cannot make a motion because I am not subbed in. However, I think probably later this morning may be more appropriate.

**The Chair:** That is right.

**Mr Curling:** I do not mind making the motion.

**The Chair:** Go ahead, Mr Curling.

**Mr Curling:** If I understand the request and the understanding of this committee, the matter has now reached the stage where an arbitrator should be appointed, and I therefore make a motion that this committee give direction to the Ombudsman to proceed in appointing an arbitrator in this matter with the Ministry of the Environment. I do not have the details. I hope the clerk will put the details in place, but I understand an arbitrator should be appointed and it should be proceeded with, having the matter settled this way.

**The Chair:** Is there any discussion or comment on that motion?

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**Ms Jamieson:** I would just like to make it clear that my office has discharged its responsibilities on this file. It is my strong view that neither is it appropriate nor is it within my mandate to enforce a recommendation of this committee, which is what you would be asking me to do. It is a committee recommendation and resolution that an adjudicator be appointed, and this really speaks to the need for us to talk frankly about the relationship between the Ombudsman and this committee. The Ombudsman is created by statute with a very clear and independent role, clearly defined. The Ombudsman does not have a board of directors. The Ombudsman operates according to the mandate set out in the act.

When my predecessors felt they had discharged all their responsibilities on a file and they could not get government to accept the recommendations, they then brought it to committee, because this is the ultimate opportunity to bring a file to the public's attention and to the attention of the Legislature. It then leaves the Ombudsman's hands because she or he has done his or her best, has discharged his or her responsibility. It is then in the political process and it is for committee and for the Legislature to deal with the government department that I have been unable to convince to comply with my recommendations. It then leaves the Ombudsman's responsibility and comes within the

realm of the Legislature's responsibility. I think I have been clear.

**Mr McLean:** On a point of privilege, Mr Chairman: I think it is very clear that this committee has the authority to direct the Ombudsman to appoint an adjudicator who in turn would bring his findings back to this committee. Failing that, where does an individual go as a last resort? I thought the Ombudsman was the last resort for people who felt they had been unduly treated by ministries and that is where the Ombudsman would continue and take it to justice, so to speak. I used to sit on this committee, for about six years I guess, and we have had a lot of cases where people were unduly treated, the same as this individual has been unduly treated. How do we get justice for this individual if the Ombudsman cannot do that for us?

**Ms Jamieson:** I would like to reply. Mr McLean raises a very important issue. I agree with you that the Ombudsman is the office of last resort once an individual has exhausted all his avenues in government and cannot get redress. They come to me. There is a very clear process I have to follow in my legislation to try to get government to listen to my recommendations after I have done a thorough investigation. If I cannot get government to listen to me by going through the deputy, the minister, the Premier and so on, my last recourse is to come here. It is at this stage that the Ombudsman gives a full and detailed report and says: "Committee, I have not been able to get government to listen to my recommendation." It is now a matter for a standing committee to take, and it is a political issue. It is a matter then for a standing committee to bring pressure to bear on the ministry, or perhaps you pass resolutions that go to the Legislature as a whole.

I note you have called ministry officials before you and so on. This is a case where the Ombudsman has made a finding on interest. The Ombudsman says interest should be paid. It strikes me as odd that the Ombudsman would then be looked to to appoint an adjudicator to make a finding on an issue the Ombudsman has already made a finding on. The Ombudsman is a non-binding arbitrator and has expended considerable resources on this case and brought the findings forward and has supported the payment of interest. I agree with you, and my predecessors agreed, there was an injustice done to this individual. But the Ombudsman has exhausted his/her mandate and resources appropriately on this subject and I have no further role. It is now for the political process to bring its influence to bear on getting this matter dealt with by the ministry.

**Ms Akande:** My comments really concern the responsibilities and the powers of both the Ombudsman and the duties and powers of this particular committee. When I look at the material we have been given that I have to refer to, on page 2 it says, "On another occasion the Ombudsman, at the request of the parties, agreed to select an arbitrator in the event that the parties were unable to agree upon one." This does not seem to be the case here, where both parties have asked for an arbitrator to be set.

It seems to me that if we look at the responsibilities of the committee and the fact that we do have a responsibility and the power to consider reports and actions referred to



the committee by the Ombudsman concerning recommendations denied—if I can stretch that, this recommendation has not been denied, but it has not been complied with. It would be my feeling that it would be appropriate to request that the minister responsible for such activity be called to the committee.

**The Chair:** Is that an amendment to that motion?

**Ms Akande:** Actually it is not, because it is different from the motion. I am sorry. I should really not be introducing another motion, nor have I. I have asked a question to allow for some consideration and perhaps a change in direction of the motion which you made, Mr Curling, in relation to Mr McLean's request.

**Mr Curling:** In response to Ms Akande's comments, the goal of this exercise is to resolve the issue. I have some concerns about what the Ombudsman stated, not against you, Ombudsman, but the process. I think later on we will have to deal with that, but if we deal with the matter of resolving the problem, I think Ms Akande made a suggestion that would move towards resolving it and coming to the bottom of it, whether or not the refusal to have an adjudicator has been clear enough to say, "We refuse to have one."

It is not quite clear, but if the minister comes to this committee and the question is asked, "Why is it not proceeding and why is it not being settled?" within that process, I have no problem at all in having the minister come before the standing committee to address this matter and have it resolved.

We may proceed in getting to the bottom of this case, and then deal later on—it comes up all the time, Ms Jamieson: the role of the Ombudsman, the role of the standing committee. If we can proceed in this way, that it is within our jurisdiction to have the minister come forward and explain why this process is not being finalized, even though there are two recommendations of the Ombudsman, I think I would be prepared to go in that direction.

**The Chair:** You now have the option to withdraw your original motion.

**Mr Curling:** I will withdraw that motion and request that the Minister of the Environment come before the standing committee at the earliest possible date.

**The Chair:** That is no problem, Mr Curling. We will move to that, I hope, as soon as we finish with our annual reports. Is that fair enough? Can I have a motion for that?

**Mr Curling:** The motion is to request that the Minister of the Environment come before the standing committee at the earliest possible date.

1030

**The Chair:** Are there any comments or questions on Mr Curling's motion? Seeing none, all in favour? Carried.

Now we will move back to the annual reports. Any further comments or questions?

**Ms Jamieson:** I have a couple of other responses to questions. First, there was a question put by Mr Curling on the cost of having separate French and English versions of my annual report printed as compared to having them bound together as one volume.

The cost of printing the reports separately was \$17,250. The cost of printing them together in one booklet was \$24,550. Therefore I made the judgement call that we should print them separately.

**Mr Curling:** So separately they cost \$17,250, meaning that the French and English in total cost \$17,250. Putting them together, French and English, would have cost \$24,550.

**Ms Jamieson:** That is correct. There is a substantial difference. I would also like to advise you that French and English copies went out to all MPPs, ministers, deputies and heads of agencies, boards, commissions and tribunals. French reports also went to all francophone agencies, service groups, community organizations, and the francophone media, including TV, radio, newspapers and newsletters. Requests received to date have been for additional reports, most frequently in my northern offices. I do not have any reports of people having difficulty getting copies of French reports. Our mailing list is quite extensive and updated regularly. We just finalized a first-rate one within the last year, for francophone communities, aboriginal communities, visible minorities, multicultural organizations and so on.

**The Chair:** Ms Jamieson, can I have a clarification? How many copies are we talking about here?

**Ms Jamieson:** It is 7,500 copies in total. Do you want to know how many English and how many French were printed?

**The Chair:** Yes, please, if you would not mind.

**Ms Jamieson:** I do not have that in my head, but just a moment—7,500 English were printed; 2,500 French were printed. I am out of the English copies and we have just reordered 2,500 more. I still have a substantial stock of the French copies remaining.

**Mr Curling:** Was the reason for having some French copies on hand because it is upon request that they get it?

**Ms Jamieson:** No. The lists I gave were the lists of people, MPPs, etc, who receive French and English copies. We also sent out copies to a whole host of francophone organizations—community organizations, community groups and so on.

**Mr Curling:** So you printed 2,500 French.

**Ms Jamieson:** Yes.

**Mr Curling:** And you have some on hand now. Do you know how many copies you have on hand?

**Ms Jamieson:** No. I could find that out, if that is of interest.

**Mr Curling:** It would be. You see, access is important—

**Ms Jamieson:** To me as well.

**Mr Curling:** —and you have emphasized it quite often in your report. I was just wondering how many of the French copies are on hand.

**Ms Jamieson:** I can find that out, and I can also give you not only the people it went to, but the numbers, if that is of interest. You are right, access is extremely important to me, and if there are any individuals or organizations watching this broadcast, or whom you may know, who are



having difficulty accessing it in French, or indeed on audio-tape, I would like to know, because I will address it forthwith.

**Mr Curling:** Just one other question about the costs. Maybe I am not familiar with all the printing costs and what is involved in compiling a report like this, but you said you have made a saving of about \$6,700 here. It cost \$17,250 having them separate and \$24,000 if you had them printed together. I just wonder how the cost came about?

Usually when you send things out they will talk about the cover having a specific cost. In these 1989-91 reports the one cover plays the role of two languages. This cover is English, and there is nothing on the back. I thought that should produce quite a lot of saving. What caused the saving, do you feel? Do you have far fewer French annual reports printed? Was that the saving?

**Ms Jamieson:** It is less and less because there is less demand. Also, you are right, there is a difference in the covers. This is not a cheap cover. It is pretty heavy and it is embossed and so on. This year I went to recycled paper, very basic colour, not too glitzy, and tried to save some money so that we could, frankly, make it more attractive and more readable inside and devote the resources to that—do some photographs, do a report that was more inviting to people as opposed to one that looked terrific on the coffee table.

**Ms Haeck:** I have a supplementary to Mr Curling's comments. You mentioned the audio tape and the cost of production of your annual report. Was the cost of producing the audio tapes included, or is that a separate line item?

**Ms Jamieson:** That was a separate cost, but it was just a few hundred dollars, \$300 in fact, to have it done.

**Ms Haeck:** How many of those would you have distributed?

**Ms Jamieson:** I could find that out. I do not have that in my head, I am sorry.

**Ms Haeck:** It is just a curiosity in light of the fact that more and more people are accessing government services. It would be interesting to know how far-reaching this kind of report would be, and to look at the availability of other government reports in a similar manner.

**Ms Jamieson:** This is a first for us. I am happy to correspond through the Chair and respond to that question, if that would be helpful.

**Ms Haeck:** That would be good.

**Ms Jamieson:** Do you want me to go to the other questions I am responding to?

**The Chair:** If you would.

**Ms Jamieson:** Ms Akande asked for the specific test that had to be met to be considered a governmental organization within the meaning of the Ombudsman Act.

First, let me say that section 15 in the act outlines my function. It says that I am to "investigate a decision or recommendation or act or omission in the course of administration of a governmental organization and affecting any person or body of persons in his or her personal capacity."

Clause 15(1)(a) defines government organization as meaning "ministry, commission, board or other administrative unit of the government of Ontario, including any agency thereof."

For further guidance, we can look to the words of Mr Justice Morden. This is a subject that went before the Ontario Court of Appeal. It was a jurisdictional challenge. The case is re Ombudsman of Ontario and the Health Disciplines Board of Ontario. I have brought 10 copies I am happy to have distributed. Mr Justice Morden noted that there were three reasons why he felt the Health Disciplines Board in that case was a board as defined under the section of the Ombudsman Act that I referred to. He said:

"It is my opinion that the Health Disciplines Board is a board as defined in section 1(a) because (1) it is established by a provincial statute; (2) its members are appointed by the Lieutenant Governor in Council; (3) it discharges a provincially assumed regulatory responsibility in the course of which it is required to apply provincial law. These features are in themselves sufficient for the board to fall under the section of the Ombudsman Act."

He goes on to talk about other parts of the Health Disciplines Act. I will not read that out to you, but I have copies of the case. Those are the three basic elements of the test to be met and to be applied in conjunction with clause 15(1)(a) of the act.

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Let me see, what else do I have to respond to? I think that is it for those members here present who put questions last time, except perhaps for the question of the role, which came up towards the end of the discussion. You asked me to bring the correspondence we exchanged last spring regarding our respective roles. My notes for those remarks are included as part of the record, I think. I have brought copies for your ease of reference.

Actually, it all started at our meeting last April. We met April 3 when I appeared before this committee, then I had an in-camera exchange with an orientation session; for that you were kind enough to come to my offices. Then on April 24, following a further in-camera session, I received a letter from the Chair telling me the committee had adopted a new policy with respect to its review of communications from the public. I have brought that letter as well.

The form letter that was attached followed the principles we discussed in our meetings, namely that the people approaching the committee to express concern about the way the Ombudsman had dealt with their complaints have the responsibility of providing the committee with all necessary documentation. In that way, the Ombudsman was not asked to violate those restrictions placed on me by the act for confidentiality. You outlined some of the documents you wanted: final report, correspondence and so on. Your letter also confirmed that the committee's review is for the purpose of looking at whether the treatment and investigation of the complaint was full, fair and adequate. It also confirmed that the committee would not act as a court of appeal from the Ombudsman.

We then had an opportunity on June 5 to test the policy with respect to a particular case where a question was raised as to my involvement. I was very happy to be able



to provide the committee with an outline of my practice and procedure in that regard. I know no committee is bound by the decisions of its predecessors, but I hope this working arrangement will help us to concentrate on our respective roles.

I am happy to have these distributed. I will give these to the clerk perhaps, and also the cases.

**The Chair:** We do have documentation, but we will take it, obviously.

**Ms Jamieson:** Simply put, I receive complaints either directly from the public or through members of the Legislature. I investigate them, make findings, consider my findings and make recommendations. I do my level best to get the governmental organization to implement my recommendations. Where it does not do so, I have the option of reporting the failure to implement my recommendations to the Legislature. At that point, as I have said previously, my responsibility ends and it is up to the Legislature to take whatever action it wishes.

I certainly plan to work very hard to develop a co-operative relationship with this committee because, frankly, I depend on this committee to uphold my integrity as an officer of the Legislature.

One last thing may be informative and that is, when can I reopen an investigation? There are limited circumstances when the Ombudsman can do that after she has reached a finding of non-support of a complaint. There is a legal case on this question and what it says is that the Ombudsman's power to further investigate—in other words, to reopen—should be limited to his investigation of evidence not previously known to him, whether or not it could have been previously discovered; in other words, substantial new evidence.

If the committee has before it a complaint from a member of the public and there is new evidence available which I was not able to consider in my report, you will see that clearly because the reports we give to the public when I do not support complaints are fully detailed. I have a very high standard to meet. I do not just say, "I do not support your complaint." I say what I understand the complaint to be, what steps I have taken, and why I have decided not to support the complaint. A very high standard is what I require of my office.

If at any time you find there is additional evidence that was not considered, please, by all means refer the member of the public back to me. I would be delighted to have another look at it. In fact, I have my own internal mechanism for reviewing complaints from the public on how we have handled cases. I will leave it there.

**The Chair:** Just a couple of points of clarification. It is my understanding that the subcommittee can ask that you reopen a case. In the June 5 letter I believe we asked you for specifics and you answered us generally. That is just for clarification. Are there any further comments or questions?

**Ms Haeck:** I have a particular concern that follows up on Mr McLean's and relates to timeliness. The case he has brought forward raises questions. How many cases are there of a citizen who has a complaint having to wait 13 or

14 years for some kind of resolution? That, for me personally, is extremely bothersome because I think there should be some answer, one way or the other, a whole lot sooner than 13 or 14 years after the incident in question. An undertaking I would raise with you is to find out the longevity of some of the cases you have and the average time frame for resolution.

John and Joan Q. Public view your office as the mechanism to achieve some sort of resolution in a relatively timely fashion, so I think we as a committee should have a handle on what is waiting, what is out there, what is happening, in order to grapple with what needs to be done to facilitate resolution.

**Ms Jamieson:** I can respond to that today. I know of no other cases similar to the one that Mr McLean raised and I can also advise that the Ombudsman reported on that case in 1982. The fact that the recommendation of the committee has not been implemented is another question. I do not know how many cases may be in that category, but let me deal with the ones that are still with me.

First of all, I should tell you I do not have a backlog. Second, I should tell you I have some cases, fewer than five, that are more than three years old. "Why do cases take a long time?" I ask regularly. Some are stalled because the court case intervenes and we discontinue for a period, or we close it completely. Some have to do with complexity, some have to do with lack of co-operation with ministries and some have to do with an unwillingness on the part of a complainant to let the case go.

We may find we have just reached a conclusion or are very close, and before I reach my final report, if I am not going to support a case, I write to the complainants and tell them: "This is what it looks like to me. Do you have anything more to say to me before I finally conclude on this case?" Often they will raise another issue and I will look at that. Sometimes they continue to raise issues and it is very difficult to bring the case to a close. Sometimes my staff is unwilling to let the case close, and I am trying to deal with that.

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In the category of cases that are two to three years old, that is rapidly going down. There are some two dozens. In the category of cases that are between the age of one and two years old, there are 135. The vast majority of my files, some 90%, are less than one year old as at the end of October. The vast majority of my files are assigned to an investigator less than three weeks after they come in the door. We act on them within three weeks. It is a kind of rule of thumb.

How long does it take? Longer than I would like. One of the priorities for my newly appointed director of investigations and legal services, who is here today and able to hear both my concerns and yours, is to lessen even further the period of time. A recent study we did internally showed that 70% of the cases that my district offices deal with throughout the province are resolved early on, without the necessity of launching a formal investigation. This is where I propose to place increasingly more emphasis, as well as collecting cases and doing systemic reviews, as



opposed to doing six or eight cases on the same complaint. I hope I have responded to the question.

**Ms Haeck:** You have, and you have raised a number of other questions. Can I proceed for a few more minutes?

**The Chair:** By all means, go ahead.

**Ms Haeck:** In the case of the ministries which are providing some interesting obstacles for you or for your staff, is there a procedure whereby this committee could assist you in achieving resolution?

**Ms Jamieson:** Yes. The process is that I need to come to you and demonstrate that I have exhausted all avenues to get government to respond to my recommendations. In terms of getting a reply, there are a number of things I can do. Normally, if I cannot get a response at the line level, I will raise it with the deputy. If I do not get a response there, I will raise it with the minister.

**Ms Haeck:** Could I just interject here? What are the time frames you are dealing with? Do you provide those people with a time frame and say, "In three weeks, I want a response"?

**Ms Jamieson:** Yes, and it is exactly as you have said it; it is three weeks. If it is a matter of providing some documents, I do not usually have a great deal of difficulty. If they are not willing to provide documents, I have a power of subpoena, and I can enter premises and seize documents. I can do those things. What I prefer to do is to try and work with a ministry, and we have, by and large, a good relationship.

At times, though, I have to remind them that I have those powers. If they are not too willing to be co-operative upfront, I do not hesitate to raise it further. I do set deadlines, I do advise them. If the deadlines are not adhered to, I will take further steps. It has not gotten to the stage where it has been bad enough that I have subpoenaed. I have not exhausted what is available to me at this stage, so I have not seen that as something I have wanted to raise with committee.

The question was asked about response time. I am looking at that and hope to be able to say something about it in my upcoming annual report. I think it is improved. It is still not terrific, but I do not want to make a judgement call on that without my statistics. I am having my system searched now on that subject.

**Ms Haeck:** The figure that comes to mind is 31,000; that is a rather large number of calls to receive. Having worked as a public librarian for 15 years, I know the whole process of information and referral, and that is a good chunk of calls. I assume you are not filling out a case sheet or something of this sort for each one of those, but you will be a quick referral on to another agency if that is the case. Most of these, I would assume, are resolved almost immediately if that seems to be the issue.

Would you feel that in reality there might be a better way of your office's handling that, in a sense—I should not say your office—that there should be another means for the government to possibly set up a mechanism of providing information and referral, or do you feel that your office is performing a very valuable function in this regard?

**Ms Jamieson:** First of all, the 31,000 comes at a time when the opinion survey I did told me that not as many people are aware of my office as should be, and those who are most vulnerable are least likely to be aware. It leads me to believe there are quite a number more out there who are not coming to us. Of the 31,000 who are coming, we do keep inquiry referral records and forms and so on. I make it a policy not to send people away without a referral. By the time people come to me, I am the place of last resort. Many of the individuals who come to me are frustrated. They have been the rounds and tried everything they know how to try. I just think it would be really counterproductive if I were to send them off without a referral.

**Ms Haeck:** What about a follow-up? I know, having done this on many occasions myself in my other life, that people get exceedingly frustrated being shunted from pillar to post or office to office. At that point they want to feel that someone is taking them seriously and working on their behalf and there is something actually being done. Another referral frequently exasperates them. Do you have any sense that those people, as a result of your referral, have received some sort of satisfaction?

**Ms Jamieson:** We have some information on that; we are aware. Sometimes we make a phone call and put the individual in touch with the referral. If it is something we can deal with quickly, my staff will deal with it very quickly even though it is not, strictly speaking, within my jurisdiction. Often we resolve complaints simply by explaining to an individual what has happened. I am sure you would share with me that government can always improve on its explanation of why decisions were taken, why forms were sent or why an individual is on the receiving end of a decision. Often we merely explain what has happened.

We will on occasion do follow-up, but if it is a non-jurisdictional issue I ask my staff to try to be considerate. Yes, we do give a referral, but we cannot spend the Ontario taxpayer's money on following up things that are not strictly within my jurisdiction.

**Ms Haeck:** I am partly looking for some guidance here because of the kinds of comments my staff get in my constituency office. We have an awful lot of calls as well. Other members of this committee have had discussions in our area, particularly Mr Kormos and I, about making forms and procedures as a whole more simple for people.

Obviously, if your office is receiving such a great number of calls I think it would really be a great service to all of us and the ministries in question to make some recommendations on how to improve service. Some questions that you are getting, whether it is OSAP or something else, people find these things complex and confusing and frequently useless. So if you have those kinds of information, I think it would be a great help to all the ministries and the government as a whole on how to be more helpful to the large constituency that Ontario is.

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**Ms Jamieson:** I could not agree more, and I think my office is obliged to draw the conclusions from complaints that come our way. We have had occasion to refer quite a number of calls to ministries, and when we approach a



ministry about its adequacy of service, we have had one response which I have in mind, which is, "Well, yes, but we do follow up on it when you call."

That is not good enough. Not every individual ought to have me as the go-between to get his or her matter dealt with appropriately. I agree with you that where we see that as a trend, either within one department or throughout government, we are obliged to raise that question. This is where I think more broad-based investigation, more systemic views, would be very beneficial. The Ombudsman has an opportunity to do own-motion investigations, and where I see a trend like that developing, I think I am obliged to follow it up and make some conclusions.

We are right now trying very hard to revamp the way we collect the complaints coming in so that we can easily manipulate them into giving us the information we need, or easily translate them, comprehend them, so that they can be the foundation of a fuller investigation. We have not kept those statistics historically. I have an internal data working group, just very, very new. We are looking at ways of doing that and also of keeping track and giving my staff the credit they deserve on the complaints they are resolving.

**Ms Haeck:** Is there one ministry above all others that you have to deal with?

**Ms Jamieson:** Yes, there is.

**Ms Haeck:** And what might that one be?

**Ms Jamieson:** The Ministry of Correctional Services; that is why I have devoted a particular section in this last annual report, page 44, to correctional issues. I am available to receive complaints from all inmates in all correctional facilities, so in pure numbers, I guess we deal more with corrections. I hasten to add that this does not mean they are the worst or anything like that, but the numbers are there.

**Mr Curling:** Another supplementary and then I hope I get the chance to ask you some other further questions. Just on the follow-up on this, I asked you the first time you were here, last week, if you would give a report of the ministries that are the good ones and the bad ones, or the ones that co-operate or not. The reason I asked that is that the standing committee then would be in a position to assist you in doing your job better. I think you have advocates here who want to see a better Ontario and justice being served better.

In your annual report you mention the complaints in different categories. Would it be helpful if that list could be given to us, about who goes beyond the three weeks of response time, how many of those you have had to bring to the Premier's office and say, "I think you should call these people in, because consistently I am not getting the response time"? I put it even stronger. You have a responsibility to this committee to say: "Here's what I have done over the year. Here are the people who are making the job a little more difficult. Here are the people to whom I want to give accolades because they are just so co-operative." Individually, as is pointed out by my colleague, we have difficulty getting responses from some ministries. Would that be helpful? Could you supply us with all those ministries that

took a longer time in responding to the guidelines that are laid out?

**Ms Jamieson:** I think the opportunity of the annual report—and more frequent reports, if I am able to make them and it is appropriate—provide me with a vehicle to advise the committee via the Speaker, with whom I am obliged to table my report, on some of those observations. I gave some thought to it last year—I think I mentioned this last time—gold stars and words of encouragement.

I am asking my systems people to pull out response time track records so that I can put my finger on the improvement, which I think is there, and also the troublesome spots. I hope to comment on that in the next annual report and then I would be very pleased to discuss it further in more detail.

**Mr Curling:** I am hearing from you then that you are not prepared to give us that report now, but in the next year.

**Ms Jamieson:** I do not have that report now. I am advised that the way I provide my reports has to be through the Speaker and then the Speaker refers them to the committee.

**Mr Curling:** We still have a concern about it that we are going to address later on. Sometimes I hear you saying that we just give instructions and directions—

**Ms Jamieson:** Yes.

**Mr Curling:** —not you, really, but to call before us a minister to respond or to explain certain things. Now I am hearing another process which we will come to later on, that when you do have reports, it is through the Speaker that you present them.

**Ms Jamieson:** I am sorry, that is what the act says.

**Mr Curling:** That is fine. I understand that; but later on I think we will have to examine that so that the committee can play its role in a better, more effective way.

**Ms Jamieson:** Okay.

**Mr B. Murdoch:** Just to follow up on this, I think Alvin has touched on the whole problem we are having here. If the committee has a problem finding out what our role is and it keeps coming back to, "Well, this is what the act says," maybe we have to change the act, if that is what we have to do. I think we are here trying to help you and we want you to help us when we get a problem, but if we have to keep sort of pussyfooting around the act, that is the problem.

I think Alvin has a good question. If you are having trouble with some ministries, maybe we should know, because we can help. I think that is what we want to know here at this committee. This is the whole crux of the problem and one of the reasons why we want you here, and I think we have got to discuss that somehow and come to a conclusion. If the act is wrong, then I guess we have to change it. This is what it is all about, if this committee is redundant. I think we feel we are sitting here and we are just sort of helpless—at least we have felt that in the past, anyway. And yet, are you working with us? I do not mean



you personally. The system seems to be working against itself and nothing will ever get resolved.

I want to say this now because, just as Alvin said, we would like to know that. You skirted around it pretty good and in the end you used the act to get out of it. If that is the case, then maybe we are going to have to look at the whole act, open the whole thing up again and see whether we need this committee.

**The Vice-Chair:** I think the Ombudsman would like to make a reply.

**Ms Jamieson:** I want to be clear. Last year I did not have one case where the recommendations were denied. I said in the report that by and large I enjoyed quite a co-operative relationship with government departments, ministries, agencies, boards and tribunals. If I had great difficulty, if I could not get government to accept my recommendations and if I had tried all the things I must try, you can rest assured that I would be before this committee on a case, outlining in full detail what I had done and the difficulties I had and why I was looking to the committee to assist in having my recommendations dealt with.

The Legislature has given the Ombudsman vigorous investigative powers. I have to use my brain and discretion in exercising those powers of investigation, subpoenaing documents and so on, but I have them. If I were to come to committee each week and complain about this ministry or that ministry, I would think committee would be well within its rights to say to me: "Ombudsman, (a) you have powers in the act. The Legislature has given them to you. Use them. Have you done so? And (b) you are to come to us when you have exhausted the available process and when you require the weight of the Legislature to see that your recommendations are implemented." That is where the relationship occurs.

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I do not want to give the impression that there are a whole bunch of cases the Ombudsman is having incredible difficulty with, that the Ombudsman is just running up against the proverbial brick wall with ministries. That is not the case. Were it the case, I would bring the file here, having exhausted all that which I am supposed to under the act. The act tells me how I am to bring it to you, namely, by a report tabled with the Speaker.

**Ms Akande:** I am not so much concerned with the time it takes to do the investigations. I recognize through the report that you are enjoying unusual success—unusual from other arenas, perhaps not from yours. What I am concerned with is a link between the terms of reference of this committee and the responsibilities you hold, and how in fact we may operate in a way that makes us also an effective tool when and if you have to come to us. I am concerned with the fact that there seems to be a limbo there, where your responsibilities and powers end and, after you have reported through the Speaker and it is brought to us, where ours begin. I am not certain whether the limbo is one in fact or whether we have failed to define our responsibilities, so I bring this question to you.

Recognizing that you make recommendations and that some of them are denied—and you talked about that—and

that most of them are complied with, what about those recommendations that are neither denied nor complied with, such as the one to which we previously referred, although I do not want to talk about the particular case?

**Ms Jamieson:** I guess there are two categories of those and it has to do with tense timing. If I have looked at a complaint which has led me to recommend that a ministry change its procedure, whether it is Corrections or Health or the Ministry of Community and Social Services or whatever, and it has accepted my recommendation on the individual case and provided the appropriate redress, whether it is apology, financial compensation, whatever, and it has also said, "Yes, we undertake to change our procedure," I will say: "Okay, that's fine. That's in compliance with my recommendation and I accept your response."

I do not leave it there, however. I then will say, "I would like to see your procedure," and a time line is outlined, and if the ministry does not comply I follow up with it to ensure that it has taken the action it has agreed to take. If they have not, I will expend whatever energy at whatever level to see that it is dealt with. If it is not dealt with, I then have the option of bringing it to committee. Not every Ombudsman has brought every case to committee. The Ombudsman has to say, "Is this something that requires public attention, to be aired publicly?" Once I have decided that yes, this should be brought to committee, I bring it. The committee hears the case and may choose to hear from the ministry. It comes to its own conclusion, which I hope is to support my recommendation.

Thereafter, any undertakings would be made to committee and then it would be up to committee. It seems to me the individual making the undertaking to change the procedure is answerable to committee. He ceases to be answerable to me when I say: "Hey, I have exhausted all my avenues. I even took it to the Premier and I couldn't get anywhere and I am bringing it to committee." It is there that the Ombudsman's responsibility ends on that particular file. Then if a ministry says, "Yes, we'll do it," and it does not, I guess it has to answer to the Legislature through committee, which historically has been an incredibly powerful tool.

**The Chair:** I have a clarification and then a few brief questions, if I have everybody's indulgence. Mr Mammoliti asked you for a copy of your grievance procedure. Did you happen to bring it so you can share it with us?

**Ms Jamieson:** Yes, I have. As a matter of fact, I was hoping Mr Mammoliti would be here.

**Mr Curling:** I was hoping too.

**Ms Jamieson:** He asked me for a copy of the grievance procedure—I have brought about 10—and he also asked me a couple of other questions.

**The Chair:** Can you share them with us now?

**Ms Jamieson:** Certainly. I would be happy to. He asked me about numbers. He did not ask me for specifics of facts and so on with respect to grievance procedure and I think that was appropriate. I am prepared to share the procedure, which is some 13 pages long and provides for a variety of steps, from having the issue raised with one's



supervisor and up through the Office of the Ombudsman, ultimately, if the matter cannot be settled—does this sound familiar?—to an arbitrator, which the Ombudsman is obliged to pay for.

The policy begins with an outline of the fact that the purpose is to encourage employees to discuss any matters of concern with their supervisors. If they cannot achieve success informally, there is the formal grievance process. We also have the employee relations committee in my office, which is a group of elected employees who are available to act as a resource or indeed to represent the employee who has a grievance.

Employees receive travel costs, etc, time off from work, of course, and so on to attend grievance meetings. There are forms in here showing how the grievance should be filed and so on. Since I have been appointed, which is all I propose to speak for, the grievance procedure has been invoked nine times by four individuals in total. One individual has filed five grievances, one individual has filed two and the other two individuals have filed one each.

Of the grievances that have been filed in the last two years, three have been upheld, three are in process and two are being joined to arbitration. That is both the grievance procedure—maybe we can give this to the clerk—and the statistics. In the last two months, I have had a meeting with all staff and encouraged—underlined really—the policy of the office to deal with their concerns with openness, sincerity and fairness.

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I am very much aware that it is important for my office to be, as someone has said, fairer than fair, because if the Office of the Ombudsman is to review other agencies or if the Office of the Ombudsman is going to make decisions and findings on the basis of complaints about ministries, agencies, boards and tribunals, then the Ombudsman is obliged to represent a model administration. I speak to that actually in the mission statement of the most recent annual report, to the obligation on the part of my office to be of the highest standard. It is not to say that improvements cannot be made; they can and will be made.

I think that responds to the request of Mr Mammoliti in full. You will note that the grievance procedure is dated February 1989. It is a bit out of date, even though only two years have passed; for example, the executive director is named in the process. There has been no executive director at the Office of the Ombudsman since the reorganization. It needs some revamping to bring it in line with contemporary realities, and this is the subject I will be exploring further with staff.

**The Chair:** Thank you very much for sharing that with us, Ms Jamieson.

**Mr Curling:** You have had a tremendous amount of staff changes in the department in the last year, would you say so? You said you would change your own staff, and you mentioned that the executive director is no longer there. Are there any other positions that have been depleted or changed with the reorganization taking place, where many of those positions are no longer there?

**Ms Jamieson:** There were a number of changes in the organization. If you like, I can talk about a couple of them and give you a flavour of the whys and the whats. First, I guess as you know, I am appointed for a 10-year term and, as you know as well, the powers of the Ombudsman Act are vested in me personally and not in an office.

The act, of course, as I keep saying, defines my mandate—Mr Murdoch will appreciate this—and provides me, in section 8, with the authority to employ staff and to determine conditions of employment, so the Ombudsman is able to draw around him or her the people who will help him or her carry out the mandate in line with the particular approach the Ombudsman brings to the job. Each Ombudsman has a different style and a different approach even though the mandate has been consistent for about 16 years.

I came to the office with certain ideas of changes that needed to occur to make sure the Office of the Ombudsman was relevant and effective in the Ontario of the next century. I also came prepared to listen, and one of the first things I did was seek input. A lot has happened in a year and a half of my term, and just as my successor will probably find my approach inappropriate and my organization perhaps not the best for his or her liking, I too thought some changes should be made, and I have made some.

First, there was a grace period in which I listened. I talked to every manager in the office for an hour and a half or more to hear from them what they thought. They had been there, some of them, quite a period of time. What were the problems? What were the good parts? What needed to be dealt with?

Coming out of that were a series of things people felt strongly about. One of them was that there ought to be a mission for this office. There ought to be an identifiable goal statement that people could relate to. I then set about meeting with every member of my staff in small groups and developing a mission statement, which is in the report, with their input. I determined that certain reorganization was necessary. I created the directorate of community access and intake and created a director position. I created a director of human resources. The position had previously been a manager. I provided certain training opportunities for staff to help us get to where the mission statement wanted us to be.

The training opportunities have included conflict resolution training for every member of my staff at whatever level. I have also provided cultural sensitivity anti-racism training for every member of my staff at whatever level. I have also provided management training and training in bias-free interviewing skills for managers. I have also been very proactive in a recruitment strategy, because I feel strongly that my office needs to reflect Ontario. We have also had outreach and are putting together public education strategies. There was also a concern about equity in the office and the need for an independent, relevant salary scale, so we did a job evaluation and developed that.

Incidentally, that had a built-in appeal mechanism. Those employees who were not satisfied with the evaluation could appeal it right to me, and some did. Some people determined, for whatever reason, they wanted to move on. You will recall, some of you, that the voluntary exit



option happened at the same time. Shortly after I was appointed there was a program extended also to my employees to allow people who wanted to move on to do so and there was a certain incentive. Some people chose that.

In a very few cases there was a gap between the orientation of individuals, what they wanted the office to do and be, and the approach the office was now taking. In those very few cases, frank discussions were held and every assistance was provided so they could consider options of employment outside my office. In those instances out-counselling was provided. In a year and a half it has been a period of adjustment, some testing and change. I think we are about 80% along the way, with the exception of two or three key positions that have yet to be filled. We have the foundation under this office to go forward, and we filled these jobs from inside and from outside.

I have said enough about the need of an officer of the Legislature to be one who exemplifies the integrity and credibility of the Legislature itself. I am quite aware of that and I am quite aware of the fact that I need every day to be moving towards the ideal that I set for myself in the mission statement on page 12 of the annual report.

**Mr Curling:** You have not said how many changes. Has your staff increased in number or has it decreased? How many people left with all the voluntary exit programs you had, both those who went to seek higher ground or those who decided to retire? I am asking how many have changed and how many positions—you mention about two. How many positions have changed? You said two have not been filled.

**Ms Jamieson:** Yes, all right. I will go through it off the top of my head.

1130

**Mr Curling:** I just need numbers actually. Has the staff decreased or increased in rough complement?

**Ms Jamieson:** I have had 129 full-time equivalents from the day I walked in. At any given time, the numbers of positions filled because of recruitment, attrition and so on will differ. I have up to a maximum of 129 and I have not asked to go nor have I gone beyond that.

**Mr Curling:** Is it necessary for you to have more staff?

**Ms Jamieson:** It is very clear to me that the case load is going up. Last year we were 30,000 plus; the previous year 25,000. This year it will be higher. I know the caseload is going up and I also know it is going to cost me some money to provide the kind of genuine access to all people in Ontario that I think needs to be provided. There is likely to be a need, but I have not yet satisfied myself that I have found all the efficiencies in-house, that I have reallocated everything I can reallocate to meet the need. I have not settled on the indices to come to a conclusion on the need for additional resources.

When I reach that conclusion I can tell you that I will make sure I am well prepared before I go to the Board of Internal Economy. I can tell you though, for instance, my staff are suggesting to me in the strongest of terms that I ought not to have any office in the districts with one person only in it. I am placing an increasing emphasis on

public education and outreach, and the same staff who have to do that in the districts also do intake.

I have transformed some of my offices into two-person offices with two district officers. It has been suggested to me that I ought to continue down that road. So far, I have been able to do it internally without seeking additional staff or resourcing.

**Mr Curling:** Will you find it necessary, if such a request is to go before the Board of Internal Economy, to come before the standing committee first to put your case? I just want to say it might have been helpful in the the case of the mission statement, because I am learning of the mission statement for the first time through the annual report. It would have been helpful for us to see that we work hand in hand.

As a matter of fact, since this is a Legislature, the standing committee is the body to which you report or come to appeal for support, because whether we look at it through the legal process of the Speaker, through the Legislature, or through the standing committee, this is it, really. Would you find it necessary or helpful to come before the standing committee and say: "Here it is. I would like to go to 150 and these are the reasons. I do not feel the north is served properly," and these are examples or "I haven't got adequate staff to address the Franco-Ontarian community adequately, or the native." I will ask later, as I have indicated, about how they are being served. What are the impediments or restrictions before you? Would you find that necessary to do so?

**Ms Jamieson:** Gee, I do not know what the Board of Internal Economy would say about that. That is the body I traditionally go to and support my case. I do not know how they would feel about that.

**Mr Curling:** You would probably feel great to know that a complement of quite adequate parliamentarians had sat you down and fully supported you to go before Internal Economy. You could say, "Everyone there supported me strongly."

**Mr B. Murdoch:** That is what I wanted to bring up.

**The Chair:** Mr Murdoch, please go ahead.

**Mr B. Murdoch:** That is what I wondered. Maybe you can tell me how the act—because you decipher it better than even I do. Maybe this committee can help you with these kinds of things, or are we not to do so? I would like to know where you stand on that, because you told us about all the changes you made and I do not know whether they are for the best, hopefully they are.

I thought maybe this committee would be here to help you, or at least you would come to the committee and say, "This is what I'm going to do; do you like it or don't you?" I guess if we did not then we might have a problem. I would assume most of us would probably go along with it, but if we had some concerns I am sure you would want to know about them. That is what I am wondering: Where is our job in the whole thing that is happening here?

Again, I think that is why you are here, because what we want to know is, should we have been involved with all these changes or, in your mind, should we have not been involved? Obviously not, but we are saying maybe we



should have. We would like to support you. We want to work with you and not against you. I think that is the whole thing we are trying to find out. Again, maybe we would be redundant.

**The Chair:** Mr Murdoch, can I make a clarification for you? We used to review the estimates of the Ombudsman, but now that the standing orders are changed, the standing committee on estimates does that itself. We no longer do that.

**Mr B. Murdoch:** The Ombudsman and her people changed the way of operating. That is fine. I am not complaining about what you have done, but I am saying, maybe this committee should have been involved a little with it. Or should we not?

**Mr Curling:** The estimates procedure anyhow is a bit hokey. The estimates procedure is telling you to review and approve a budget that is all completed, so we know about the estimates game anyhow.

**Mr B. Murdoch:** But that is not the main thing I am talking about.

**The Chair:** Mr Murdoch, can you place your—

**Mr Curling:** He is doing very well.

**Mr B. Murdoch:** I am just following along what Alvin said. Are we to help out or are we not? This is it, and if we are, then we want to be here to help you, because we can go to the floor and help you. But if we are not, and if in your mind we are not, then maybe we have a bit of a problem and we should work that out. That is why we are here. We can talk about cases and things like that, but we have to find our role with you and your role with us. That is what I want to know.

That is what we have been sitting here complaining about for over a year now. What are we doing? This is what I am saying: Should we not have had some input? If we should not have, fine; but if we should, then when you do anything in the future, do you want to come and talk to us first? Maybe you do not feel that is right. I think that is why we are here: to hear from you. Do you follow? That is all. I just want to know where we fit in this whole scheme of things.

Everybody gets the report, so we are hearing it at the same time as everybody else. Yet we are supposed to be the committee. I would have thought that maybe with the mission statement you would have come here first and said, "This is what I'd like to do and this is my mission statement. You're my committee, what do you people think?"

Probably nine times out of 10 we would have agreed with you, but there might have been that little input we might have had and you might have said, "Oh yeah, they have a point there." But it did not happen that way. I am not saying it should have, but I think if we are going to be a committee of some action, we have to work together to solve problems.

**Ms Jamieson:** I guess we are coming back to the same theme. What we are struggling with is the fact that this committee and this officer are unlike any other in the Legislature, with the exception perhaps of the auditor. The

relationship is different and I am certain it is different for many of you who are on other committees. I have no doubt. I can see that. We are struggling with, "What is the difference in relationship?"

What do I do when I want to figure that out? I look at the terms of reference. Frankly, my terms of reference are the act, and at the risk of being absolutely boring, that is what I must look to. The act has given quite a degree of independence to the Office of the Ombudsman. The appointment, as I understand it, is deliberately for a long period of time so that the Ombudsman would not feel beholden to any party, government or whatever and could act independently over time and feel free to criticize the actions of government. Section 8 of the act gives the Ombudsman independence in hiring, in determining employment conditions and so on. There is a significant amount of independence given to the Ombudsman.

1140

Yes, I think I should be tabling my reports and speaking to the committee. I did so. In the first report I outlined quite a number of the changes I had in mind. We did not, however, have an opportunity to meet on it. In the second report I followed that theme and you will see in my next one I will follow it again.

But I guess we are coming back to the same thing. When I look to find what my relationship is with this committee, I look at the act. The act tells me a number of things. The first thing it tells me is how I report. The process to do that is in section 12. The next thing it tells me is when I seek the support of the standing committee on something, and that is in subsection 22(4): after I have made a final report and the recommendation has been denied. It also speaks to a provision for a standing committee to make general rules, which it has done, for the office. The rules have been about things like the manner of tabling of reports and the fact that it should go to the Premier first.

You will recall last April when we talked about some of these things—it was, I guess, quite a different group of people at that stage—we hammered out some of these things and went over the fact that indeed the committee is interested in receiving complaints from the public about the Ombudsman's actions so it can inform itself on whether it needs to make rules of any type. That characterizes the relationship that seems to be outlined for me under the existing act and the existing procedure with the committee, and I stress again, it is different. I am exploring with the Speaker and others what it means to be an officer of the Legislature, because the Speaker is one, the Clerk of the House is one, the Provincial Auditor is one and I am one, and we are quite a different group and in quite a different relationship with legislative committees.

**Mr Curling:** I think this is very important. I think this committee should speak about it and speak openly of its understanding, because you said you are an officer like the Speaker. Not even the Speaker is above the Legislature. Parliament is supreme.

**Ms Jamieson:** I am not above the Legislature.

**Mr Curling:** No, I did not say you are, but I am saying that as officers—and as members of Parliament we



could call ourselves officers of Parliament because we respond to Parliament with its laws and its guidelines itself—the standing committee here is Parliament. That is what it is, because we know that all those officers you have just named could not really all go to Parliament, so we have these subcommittees through which they address it.

My interpretation and understanding of this law is that you report to the standing committee through the Speaker himself. You relay the annual report through the Speaker and, in turn, the standing committee deals with that and asks the questions of you, and that is what we do.

The situation as you express it would be that it is to the Speaker, and we ourselves have no such powers to guide. The law here states that we can assess to find if you have conducted the office in the right manner or if some cases have been dealt with properly, and we can even say we will open those cases if we feel they have not been properly dealt with. That is how I understand it to be.

If we find ourselves incapable of exercising those duties, I do not know about my other colleagues, but I am one of the first to say we should suspend the spell of this committee. I think Mr Murdoch was trying to say too, and I support him wholeheartedly, that as an officer of the Legislature, which you are, and as an officer of the standing committee—that is what I interpret you to be—all of us support you in all your presentations of budgets, of mission, and here the standing committee would give you that support.

We can work the other way around and say, “It comes down to us for approval.” I think if it comes that way, around the other side, of course we will be reacting to you all the time in being co-operative. I do not want to say that we are in contrast to you. I find the only way we can co-operate better is if we get information almost at the right time, when we ask for a request and all of us support you. But I am a bit lost at times, as soon as we are working together, to hear you say, “Well, listen, I have extraordinary powers as an officer. I also have extraordinary powers, but not beyond Parliament.” I just want to come back to the fact that I see the standing committee as the committee to report to.

**Mr B. Murdoch:** I just want to add to what Mr Curling said. This committee does not want to get involved with your decisions of what people you are trying to help. That is a different ballgame, you might say. That is your job and we do not want to be involved in that. We are called the standing committee on the Ombudsman and it is frustrating if people come to us, even if it is staff or anyone, and say, “They are slow, they are not running right, I don’t think the people are happy there,” things like this. We just have to shrug our shoulders, yet we are supposed to be the committee. I think we have to learn to work together or maybe this committee should not be here. We do not need it. If we do not start some relationship, I really think this committee is redundant and we do not need it, if you are going to go the other way.

I do not think anyone here wants to be difficult about it either. It is just that it is frustrating to sit here, as I say, for a year and really not to have done a heck of a lot because

we do not know where we are at. We are not trying to get into your business of helping the people out and coming to decisions there. It is just maybe on the administrative part of it we feel we should be involved somewhere along the line. So we have a problem, I think, and somehow we have to sort this out.

**Ms Akande:** I think I share with some of the members or at least understand their point in recognizing the limitations of their powers within the orders of reference. But I believe we are perhaps knocking at the wrong door to extend those powers. I would suggest we review the orders of reference with perhaps a view to making recommendations towards an extension of our terms of reference so that they may include those activities that would support the Office of the Ombudsman.

In saying that, let me be very clear that I am not implying nor do I want you to infer in any way that I mean we should be taking from the powers of the Ombudsman and assigning those powers to us, but rather that we should define our role among ourselves in a way that we could then make recommendations to support where she or he left off in the deliberations of her or his particular office. That I would see as being most effective and most necessary. But I do support the independence of the Ombudsman except in those responsibilities we have been assigned, because without it the Ombudsman might be acting as an extension of political power to the extent that her judgement would be influenced and her decisions could be seen as biased.

**The Chair:** Mr Murdoch, is this on the same thing?

**Mr B. Murdoch:** It is on the same thing. I just want to say this is something we have talked about for a long time. I know Ms Akande has not been on this committee for that long. This is what we have discussed. I think what we want to do, though, is look at where our mandate is; but we want to look at it with the Ombudsman so that we are not stepping on each other’s toes. I think that is why you are here. That is why we are putting these questions out, because if we were to change something I think we would want to do it with your blessing so that we are working together. That is why you are here.

We could have done this too among ourselves, because we have been talking about it. But if we had come up with some ideas that really went against your judgement, I think we would be wrong. That is why you are here, to try to work out where our role is with you and hopefully you will like the same thing we come up with. I agree with what you are saying.

1150

**The Chair:** Ms Akande, did you have more?

**Ms Akande:** Just to indulge the comment about not going back and forth, there is something to be gained by doing it independently. In recognition of the responsibilities and role of the Ombudsman, I think we are less likely to co-influence the operations we have carved out for ourselves, and the communication of that role, once it has been defined, would be necessary and would allow for any comment. I think we are reasonable people and certainly

able to act independently. It would be my preference to do it that way.

**The Chair:** Ms Jamieson, I really want to thank you for coming. I see a lot of people have more questions to ask you, so I am going to ask the members if they would like you to come back for one more day of questioning.

**Mr Curling:** I am going to address that before you comment, Ms Jamieson, because I asked some questions earlier and we had no chance to get into that. In the annual report there are still certain things I want to understand. I indicated the French-language services and the native outreach programs which I want to understand and learn more about through the annual report. I really want to commend you and thank you for the candid way you address your response, but I feel there are errors here.

**The Chair:** If I may address that, Mr Curling, we are getting close to 12 o'clock and we have two other dates on which Ms Jamieson can possibly come back.

**Mr Curling:** I was just saying that, yes, if you could come back—

**The Chair:** There is December 11 and December 18.

**Ms Jamieson:** Could I contribute something while members of committee are considering whether they want a return engagement? I tried, in my presentation to committee on April 3, to outline how I see the role and the relationship, and I would respectfully suggest some members might want to have a look at that in preparing for whatever further discussion you want to have on the relationship. I think we provided copies of that to the clerk; that is also a matter of record. I am delighted at any time to talk to members about those subjects.

**The Chair:** I am sure each member here has further questions regarding both annual reports. On December 11 there seems to be a bit of a scheduling problem in that the Lieutenant Governor will be in chambers at 11 o'clock. That might be bad timing for us to meet. How about the following Wednesday at 10 am? Is that agreeable? December 18 at 10 am in this room.

**Mr Curling:** Is that for an hour?

**The Chair:** We could meet from 10 to 11. I am open to whatever you want to do.

**Mr B. Murdoch:** I think we should wait until December 18 and have an hour.

**Ms Akande:** If I may suggest, Mr Chair, if we had an hour—I am speaking to the request made by the member—of dedicated discussion around issues identified this morning, it might be helpful in meeting the needs of those members who wish to discuss them. It would certainly be helpful in focusing on those issues and not being off at a tangent. I suggest we identify the issues—you have identified first nations issues and whatever other ones people want to speak to—and define the time limit around those areas. Otherwise a session could beget another session could beget another session. Would that be helpful?

**Mr Curling:** One of the problems we have had in the past is the change of committee members. Every time we get into understanding it, we have a change of committee members. Mr Murdoch and myself are the consistent

members here. Your party has changed a lot and of course the chairman—

**Ms Akande:** I am causing you problems, Mr Curling.

**Mr Curling:** No, I understand as the new members come on—and as Mr Murdoch was saying, we have gone through all that. I agree with you. Last week I identified the topics to discuss and the Ombudsman willingly said she would address them, and we just did not get to them. I agree with you, but I want to talk for just one second on the time limit. To limit an individual and say, "He will address this issue in this time," I think would not sit very well with me.

**The Chair:** In all fairness, we have the Ombudsman here to answer to the annual reports of 1990-91 and 1991-92. What are the wishes of the members?

**Mr B. Murdoch:** I think it is easiest to go to the 18th.

**Mr Curling:** The House adjourns the day after that.

**The Chair:** Let's deal with when we meet and then we have to talk about what we do during the break.

**Ms Akande:** How about an hour on the 11th and two hours on the 18th?

**The Chair:** Can you meet with us next week on the 11th for an hour?

**Ms Jamieson:** I am happy to make myself available. Am I also asked to set aside the 18th? I am not clear.

**Mr B. Murdoch:** I cannot come on the 11th, and I am not going to force you to come on the 18th.

**Ms Jamieson:** I am delighted to come either day.

**Mr B. Murdoch:** Come on the 11th. They will get all the questions—

**Mr G. Wilson:** I cannot be here on the 18th. The other thing is that it will not be an hour. Generally, it starts a little after 10 and we would probably have to break before 11 to get to the other engagement.

**The Chair:** Can I ask for a consensus that we possibly not meet on the 11th but we meet on the 18th? Is that agreeable? Agreed. Okay. Ms Jamieson, can you meet with us on the 18th from 10 to 12? It is a Wednesday.

**Ms Jamieson:** Delighted.

**The Chair:** We have one more matter of business to deal with. We have to request permission to meet during recess so we can write our annual report.

**Mr Curling:** Is that all we are meeting for, to write the annual report?

**The Chair:** We can do anything we want, but we do have to write our annual report.

**Mr Curling:** Are we talking about a request to meet in the recess?

**The Chair:** That is what we are looking for.

**Mr Curling:** And part of the agenda would be to write the annual report?

**The Chair:** Right. I am looking for a motion to meet during recess, and for some sort of time.

Mr Curling moves that the committee meet during the recess.

**Mr Curling:** What do you mean, "time"?



Okay. Can I have some sort of time frame?

**The Chair:** January, February or early March. Can I throw a time out? Looking at the schedule for February—because I know everybody is meeting in February—I was hoping early March, if we could do it.

**Ms M. Ward:** Do you not really have to consider the question of how many days you want to meet rather than what time you would meet? I think the dates we would meet would be scheduled by the respective whips of the parties.

**The Chair:** We probably will not get more than a week from the House leaders' office.

**Mr B. Murdoch:** You mean we will get seven days?

**The Chair:** We will get five days.

**Mr Curling:** Of meetings?

**The Chair:** Of meetings.

**Mr B. Murdoch:** So we can meet any time in there, five days.

**The Chair:** That is right, Monday to Friday.

**Mr B. Murdoch:** You mean that is all they want to pay us? Is that what you are saying?

**The Chair:** No, that is not what I am saying.

**Clerk of the Committee:** There are other priorities, with the Constitution, resources, justice and social committees.

**Mr Curling:** I just wanted to know the priorities of the Ombudsman, because we have not really met—

**The Chair:** I guess the obvious line here is that we have agreed to meet during the recess. We now go to the House leaders' office and ask them what the best time is.

**Ms Akande:** I would hope for three meetings to deal with the orders of reference among ourselves.

**Mr B. Murdoch:** We may need more than five days to do that. It would take us five days just to figure them out.

**The Chair:** Is everyone agreed?

Motion agreed to.

The committee adjourned at 1200.

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**Vice-Chair:** Haeck, Christel (St. Catharines-Brock NDP)

Curling, Alvin (Scarborough North L)

Henderson, D. James (Etobicoke-Humber L)

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**Substitution:**

Akande, Zanana L. (St. Andrew-St. Patrick NDP) for Mr Mammoliti

**Also taking part:** McLean, Allan K. (Simcoe East PC)

**Clerk:** Carrozza, Franco

**Staff:** Murray, Paul, Research Officer, Legislative Research Service











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## Assemblée législative de l'Ontario

Première session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 18 December 1991

# Journal des débats (Hansard)

Le mercredi 18 décembre 1991

## Standing committee on the Ombudsman

Committee budget

Annual reports, Ombudsman,  
1989-90 and 1990-91

## Comité permanent de l'ombudsman

Budget du comité

Rapports annuels de  
l'ombudsman,  
1989-90 et 1990-91

Chair: Mark Morrow  
Clerk: Franco Carrozza

Président : Mark Morrow  
Greffier : Franco Carrozza

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON THE OMBUDSMAN

Wednesday 18 December 1991

The committee met at 1024 in room 151.

### COMMITTEE BUDGET

**The Chair:** The first item on our agenda this morning is the review of the 1991-92 budget. Do we all have copies of the budget? Are there any comments or questions over the budget?

**Mr Curling:** Where is the budget?

**The Chair:** You have the budget in front of you, Mr Curling. It is the long one. At this time I would ask the clerk to itemize the budget.

**Clerk of the Committee:** The budget is for our meetings in the spring and is set for one week of meetings. It contains the travelling per diems and meal allowances and also the transportation for the members to come to Toronto. One of the largest items is the printing of the report. The committee prepares its annual report for the Legislature and this is the cost of the printing. The other items are Xeroxing of exhibits, purchasing of publications, books—that is the Ombudsman Act—and the catering is for the coffee, postage stamps and the like for the committee. It is very small.

**The Chair:** Are there any comments or questions on the budget as now presented by the clerk?

**Ms Haeck:** Just to quickly refresh my memory—I think my Alzheimer's is taking over—the week we have slated—I assume it is intersession we are talking about—is specifically for report writing?

**The Chair:** Yes, it is.

**Ms Haeck:** Very good.

**The Chair:** Any further comments or questions? Can I please have a motion to adopt the budget?

**Mr Wessinger:** I move we adopt the budget.

Motion agreed to.

### ANNUAL REPORTS, OMBUDSMAN, 1989-90 AND 1990-91

**The Chair:** We now move to the second item on the agenda. I would like to welcome back Roberta Jamieson, the Ombudsman of Ontario. We will now open the floor for questions.

**Mr Wessinger:** Ms Jamieson, I do not expect you to elaborate today except in general terms. You were given areas of jurisdiction to deal with. What I would be interested in hearing from you is whether you would be interested in any change in that jurisdiction. I particularly ask you, bearing in mind the question of change in jurisdiction, what effect that change of jurisdiction would have on your workload, taking into account that it is realistic in today's economic situation, without a change in budget, that sort of context. I would like a general sort of comment from

you. I wonder if you would be prepared at some time to put your suggestions in writing to the committee.

**Ms Jamieson:** I would just like to say good morning to you all, sago in my language, bonjour. I am delighted to be back with you this morning.

I agree with you that I would like an opportunity to reflect on that question. I have not sought expansion of the jurisdiction of the Office of the Ombudsman. I have spent my first two years trying to get a handle on what we are doing and trying to improve the way we do it. It has been suggested to me by individuals, both inside and outside, that the Ombudsman's office think about whether it would be appropriate to deal with municipalities. That suggestion has been put to me, just to let you know some of the things that have been raised with me, Mr Wessinger.

At this stage I am not speaking for or against that idea. I know a number of municipalities are actively considering the idea of providing Ombudsman-like services, a place where the public can go to complain about dealings with the administration. You may know that my predecessor sought an expansion in the area of children's aid societies and also so that the Ombudsman's office could deal with complaints about hospitals. Those are some ingredients I will attempt to deal with when I respond to your question. I would like to take a little time. I would like to give it some thought.

**Mr Wessinger:** I realize that. It is more of a request, asking you to take a look at that, because it seems to me that it is not only in direct government areas that we have abuses of power; it is also in some of our government-funded agencies: for instance, as you say, municipalities, which are creatures of the province; hospitals which are closed, private corporations at this stage and do not have very much accountability, and of course children's aid societies are another type of agency. I think that would be of concern. I certainly would be interested in hearing your views on that.

1030

**Ms Jamieson:** I would be very interested in hearing the views of any members of the committee on that subject as well.

**Ms Haeck:** Let me expand on my views, because in the short time I have been in office, and also as a result of 16 years of being a public servant in the public library system dealing with the public coming to receive information and referral, I have encountered some strong concern around municipalities and agencies which people see as arms of the government. Obviously in the case of hospitals a large portion of their funding comes through the provincial government; likewise the school boards and other institutions.



While maybe not all individuals are as sophisticated in their understanding of the financial relationships and the description of arm's-length relationships, they feel their tax dollars are going to support those agencies, and when they encounter extraordinary obstacles in getting their complaints addressed, you create an awful lot of frustration among the public. It is not an easy situation, even for someone who is an elected member of Parliament, to try to address some of these situations, because there are obviously hurdles that we cannot easily overcome either.

I would like to address another issue that has been giving me some concern across government in general and actually follows up on some of the things Mr McLean has addressed in his earlier discussions with you. That is the issue of delay. In your dealings with the ministries, and that is obviously probably an area that you can speak to a lot more concretely than dealing with agencies like municipalities, when you are looking at complaints that take three or four years or longer to come to any kind of resolution, or even sometimes the limbo that complainants find themselves in, what do you see as the means to deal with this? Definitely this issue of having a case floating within the government for 14 years says there is something wrong with the system. Are there any suggestions on your part on how to address extraordinary delay?

**Ms Jamieson:** You are quite right. Delay is number two in what I have called the top 12 areas of complaint from the public, second only to wrong or unreasonable interpretation of information. Last year we looked at delay in a variety of areas. The annual report gives a couple of case studies to give you the flavour of the kinds of things we are dealing with. One had to do with a complaint about the Ontario Human Rights Commission, where after some considerable time an agreement was reached on a complaint, a settlement agreement was reached, a cheque was sent to the Ontario Human Rights Commission—

**Ms Haeck:** Yes, I remember that case.

**Ms Jamieson:** —but was not delivered until four months later.

**Ms Haeck:** That is right.

**Ms Jamieson:** At that time it was returned for insufficient funds.

**Ms Haeck:** Correct.

**Ms Jamieson:** The employer had gone into receivership in the interim. After reviewing it, I felt the governmental organization that was in possession of the cheque and had carriage of it should be held responsible. In the end they did issue a cheque for the amount of the settlement plus interest. That is one example.

There is another example, dealing with the Workers' Compensation Board, which had made a decision and some 18 months later had not implemented the decision. The amount of assistance that was supposed to go out to the worker had not gone out. We are talking about some \$16,000 in benefits and accrued interest.

There are other examples, but those are two.

There are a number of things that I think contribute to delay. I am going to speak quite generally now. Some of it has to do with lack of communication. The proverbial left

hand does not know what the right hand is doing. Often when we call government officials we will find that a file just has not made its way from one side of the organization to another. Often we recommend procedural changes to streamline the way government agencies deal with issues. Maybe the system is overly complex. Maybe there is a good reason for the number of steps that issues have to go through and maybe there is not. We try to make recommendations for streamlining where we see that as a problem. Some of it simply is not following up. I try to point that out as well.

**Ms Haeck:** Can I just ask a quick supplementary on what you are addressing there? Do you find in your dealings with these ministries—there are obviously various levels you encounter—that what they have set up as a system really at times makes no sense at all?

**Ms Jamieson:** I do not know about no sense at all.

**Ms Haeck:** I should not phrase it that way possibly; someone is going to have a heart attack out there. But the amount of paper at times, as well as the various steps there are to go through, seem to be horrendous.

**Ms Jamieson:** At times it is overly complex. At times, as I say, there may be a good reason for it; at other times there may not. In those cases we try to draw it to their attention and suggest how they can improve it. There are also cases where, for example, we will have seen a promise of service and the level of service is not being delivered. We will also draw that to their attention.

There are quite a number of examples in the annual report of cases like that where we have recommended improvement. If I can, I will try to draw one out before we conclude this morning. I will ask if we can look for it. I will come back to that if I may.

**Ms Haeck:** Certainly.

**Ms Jamieson:** We found that was more widespread, but you are right that some of the systems do not make as much sense. I hate to paint government with a very broad brush, because there are some areas where government is doing a very good job. There are areas where dramatic improvements are required. We try to pinpoint those. I would like to give you some more examples to give you a flavour of the kinds of things we are finding. One of the things the office has not historically done which I think we ought to do—we are trying to develop a system to do it—is to take complaints as they come and see what kind of picture they paint together, as opposed to dealing with the complaints always on an individual basis.

**Ms Haeck:** So it is more systemic.

**Ms Jamieson:** More systemic, much more. If I see something happening in North Bay that is also happening in Windsor, Ottawa, Sudbury and Toronto, we have a problem that is throughout a department or an organization. I think we should be drawing those linkages and making recommendations that will affect the service at large. We are attempting to do that. We have not been set up to collect and interpret data in that fashion. It is proving to be a bigger job than I thought it was going to be, but we are getting there.



One example we have now found is a complaint dealing with the support and custody enforcement office. It is on page 37 of the report. Here we had a series of complaints that members of the public felt they were not getting the service they ought to receive from the support and custody enforcement office. This was a complaint brought forward by a member of the Legislature on behalf of a number of constituents. This is an example.

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We had complaints about the amount of time they were on a call-in queue, the fact that they were not getting timely service, were not getting information, and just felt they were encountering incredible obstacles in having the simplest of questions and inquiries answered. It was resulting in quite a frustrated group of members of the public and they came to us.

We looked at quite a number of the practices throughout an office, and at a number of offices. We recommended quite wide-ranging change and it was implemented. I am not saying that SCOE now has a clean bill of health and is perfect, but there is one example where a group of individuals came via their member of the Legislature and we did a broader investigation and recommended procedural change which improved the level of service.

One thing that is also happening that I am aware of is that the expectations of the public are very high and are on the increase. I tried to touch on this in the opening of the annual report. What I am seeing with the public that comes to us is more questioning and a higher level of expectation of what it expects to receive from provincial government administrators. I know we are in a time of economic recession. I know there are fiscal strains and fiscal policy issues that have to be dealt with. There is an economic climate out there. I know the public service is limited, but I also know the public feels very strongly that there is quite a gap in what it is expecting and what it is receiving.

One of the things our opinion polls that we did last spring shows is that the public does not feel well protected against unfairness by the provincial government administration generally. The more vulnerable the person is and the less educated the person is, the more he feels that way. They are coming to us in increasing numbers. I feel my responsibility is to come up with the best recommendations I can on the basis of the complaints I get so that the government administration has a chance to improve, even to prevent problems, so I can do my part to lessen that gap.

**Mr Curling:** One of the main reasons, Ms Jamieson, that we have you before the standing committee on the Ombudsman is that it is an opportunity for us all to understand the role of the Ombudsman of Ontario. It gives us the opportunity to ask questions. I will be one of the first to say that I do not understand fully the role of the Ombudsman or the role of the committee. In other words, as we work together, I would like us to come to a full understanding of your role.

Maybe I could ask you this just to begin: Do you have a clear picture of your role as the Ombudsman of Ontario and the role played by the Legislature and the responsibility

you have towards the Legislature? Would you say you have a precise and clear picture, and also that the committee has a clear picture of your relationship, with the one and the other, both of us, meaning the committee and yourself, working together?

**Ms Jamieson:** First of all, I would not presume to speak for the committee's view. I would like to say though that, yes, I feel I have a clear picture of my role. The Legislature has been very clear, because in the case of my office, the office that receives complaints from the public about the public's dealings with the provincial government administration and investigates them, it has given me a piece of legislation, the Ombudsman Act, that sets out very clearly what my job is, what the restrictions are, the confidentiality requirements, when I am to report and to whom I am to report. It is at least annually, through the Speaker, and that report is referred normally to this committee.

You will recall last April we had quite a discussion on our role, both in committee sessions and in another orientation session informally. I will try not to be too long-winded and I will just recap how I see that role. I will let you know at the outset that I am very much guided by the act in this.

My job, first and foremost, is to receive complaints, investigate them and arrive at some findings. My findings may be that, yes, there is a supportable complaint here. Something happened to this individual or group of individuals that was unfair or unjust and they were treated rudely or improperly discriminated against or whatever in their dealings with government administrators. If I find the complaint is not supportable, I put those findings clearly in writing and let the member of the public know why I have reached that finding. If there is something there I feel was unfair and unreasonable, I also commit that to writing and tell the governmental organization involved how I see the facts and the recommendations and what it should do to correct the problem. I encourage them to adopt my recommendations; if they do not, I hear again from them. They may have some suggestions for modifying them.

I can proceed through government right up through a deputy minister, a minister through to the Premier, always trying to get a resolution to the individual's complaint, not as an advocate for the individual, but as an advocate for fairness, somewhere in between government and the individual trying to find a solution. If I cannot achieve it even by advancing and persuading the minister, the deputy or the Premier, I then have the option of pursuing the matter with the Legislature. It is at that stage that I am obliged to come before this committee and present my case, after a great deal of work, deliberate care and consideration.

My objective will be very clear. I will be looking for the Legislature to support this in getting the recommendation implemented by government. I know it will be my responsibility to demonstrate to you that I have fully complied with my mandate in my findings and my recommendations. I know you are going to want to confirm that. I know you will want to assure yourselves that I have done all the things I have said I am going to do. I know you will want to confirm that I have reviewed the facts, reviewed the ministry's response, and if you are satisfied I have



done all these things, of course my hope is that you will support my recommendations.

It is of course the option of the committee to take the action it sees fit. I do not think it is my responsibility to second-guess the committee, but at that stage it is really the potential of the ultimate public scrutiny by the Legislature that provides the Ombudsman with her strongest weapon in encouraging government to make appropriate settlements with its citizens every day. The fact that the public eye—it is often called by ombudsmen “the lamp of scrutiny”—can be brought to bear on government unfairness is the most powerful weapon the Legislature has seen fit to give to the Ombudsman.

1050

That is one part of the relationship. Another part is that I know the committee also has, in the act, an opportunity to set regulations. They do and have set regulations in the past to guide the Ombudsman in the exercise of her mandate. There is one set of regulations now. I know that in arriving at that the committee will want, from receiving complaint letters from members of the public, or however, to inform itself so that it can talk to me about procedures and assist me in improving my procedures so I provide the highest service to the public.

**Mr Curling:** The reality is that this is a political arena, and even here the setting is a political committee, balanced in a way that the government has a majority of members sitting here, and also the second party and the third party have their representatives. That is a political arena itself. The ultimate part of all this is that the Legislature has that supreme—if you want to call it supreme—power itself.

My job, as a member of this committee is, first, to understand the role of the committee and to understand the role of the Ombudsman and its reporting procedure. I see us as the arm of the Legislature. As a matter of fact, we are the Speaker's representatives. As you report to the Speaker, and you just had your annual report, then the Speaker deals with it by sending it to his group of spokespeople to deal with. I just want to have that understanding.

The people should know that too. If there are procedures we feel are not followed, or as one member has raised that the time to deal with these things is an extended length of time, I think it is almost vulgar to know that a case can take 14 years. I cannot see what complexity—I am not putting the blame on you—there could be that it could not be settled in a much shorter time. People would feel, as you said, that justice could not be done if it is delayed that long.

A tremendous number of people out there have come to me in my constituency office and stated, “I have this problem,” and then I would tell them the avenue in which they could go. If the problem is of a human rights nature or if it is the Workers' Compensation Board or if it is the Ombudsman, most responses—I hear it quite often—would be: “I don't want to go there. I don't think they will deal with me”—they said, “fairly” sometimes, but mostly they say, “It takes such a long time.”

I think as a committee we have to almost make sure we know what is wrong. There is something wrong in the process that we have set up bureaucracy upon bureaucracy upon bureaucracy to solve a problem. By the time that individual, who has no access to highly paid lawyers or to get it into the courts, has gone through all this, he has lost everything he would have had.

One of my main reasons expressly for this exercise, we want to call it that, that we go through, which I so appreciate, is our getting together to understand the Ombudsman's role. I would like to leave this session with a full understanding. I think there is a lot of improvement that can be done with regard to that. Having said all that, one of the things you said was that you extended wanting to have a closer relationship with members of Parliament and their staff. In your report you stated that you have met with members of Parliament. I remember meeting with you once, officially, some time ago when a group called at your office. I do not know how many members here have met like that, but is this a regular program, or did I not respond to some request and did not come because I did not meet with the Ombudsman group? I asked my staff if they had met with the Ombudsman. They said no, they have not met with the Ombudsman. Could you tell me how many members of Parliament you have met?

**Ms Jamieson:** You have raised quite a number of issues. One is the need for improvement in government's dealing with complaints. I am not sure what the 14 years refers to. I do not have any complaints that old. As you might expect, I generally check these things on an ongoing basis, but in particular when I am coming to speak with this committee.

We have developed internally some fairly stringent standards and we are developing more for dealing on a timely basis with complaints that we get. You are quite right that by the time people come to us, we are the place of last resort. They are often—and I would be too—frustrated, tired of going sometimes from pillar to post, going to this government office and that government office. By the time they get to me, they have exhausted all their avenues and they want some action and they want it now.

We try to set fairly stringent time limits for dealing with complaints. You are absolutely right, as well, that we can improve. I have a director of investigations and legal services who has been in the post for less than a year. I can be very blunt. One of her targets is to get the process for us dealing with complaints as streamlined as possible, at the same time ensuring fairness in our dealings with complaints.

Sometimes complainants will ask for two or three months to provide additional information. Sometimes government will do the same. That draws out the process. That being said, sometimes we take too long. I am looking for ways to improve on that.

If you have any suggestions I would be happy to hear them, because it troubles me. If some of the reaction you are getting from your constituents is that they do not feel their complaint will be dealt with fairly or quickly by my office, I would like to hear about those, as and when you hear them.



**Mr Curling:** I am sorry. I am not saying your office. I am just saying in general that they feel their complaint will not be dealt with in time with any of the bureaucracy.

**Ms Jamieson:** With anyone. I see. Yes, when people come to me, that is a commonly held view.

On the second question on meetings with members, You are right: I very much value the relationship my office has with members of the Legislature. I will just run through some of the things I have done, in the last year especially, to enhance that relationship.

Members of the public will know that they can come to me directly or through their member of the Legislature to raise complaints. I have written to all members personally. I have met with and appeared at every one of the caucuses, very early on. I have offered meetings with constituency assistants and MPPs throughout the province. I have conducted two district workshops with constituency assistants, where the two senior members of my staff who have been designated to act as liaison with the members of the Legislature appeared and conducted the sessions. They are here today and I will introduce them to you. LaVerne Monette is the director of investigations and legal services and Fiona Crean is the director of community access and intake. They are two senior members of my staff who are assigned, as part of their responsibilities, to deal with enhancing the relationship between my office and members of the Legislature.

**Mr Curling:** My question is, though, have they met with any—let's take a sample—of the members here at all?

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**Ms Jamieson:** I have certainly met with each of the caucuses. I do not know if you were in attendance. I cannot remember that. You would remember that better than I would. There were quite a few faces. As I met with all the caucuses, there were indeed some new faces, as you might expect. If it would be helpful to you, I can give you a list of—

**Mr Curling:** No, I just wondered if I was missing something.

**Ms Jamieson:** Perhaps.

**Mr Curling:** If there are times set up for that, it is extremely important that if these meetings are with the Ombudsman and members of Parliament, which I saw in your report, and if I am missing—if something is happening here, technology is so fast with all this E-mail that maybe it is glossed over.

**Ms Jamieson:** If you or your staff would like at any time, I can—as a matter of fact, after today, since you voiced this, I will have one of my directors follow this up with your staff.

**Mr Curling:** No, I do not want it to look like an individual complaint. I wanted to see if there was an overall, general meeting for members of Parliament.

**Ms Jamieson:** Yes, there has been.

**Mr Curling:** It is fine that people are meeting, but I have a couple of questions too. I know you may not have completed that part of your answer to my question, but I

want to move on to the French-language area, to French-language services. What progress have you made in that respect? Are there any changes? What are some of the problems you see in the area of French-language services? What improvements do you see that should be done and how is the public responding to the services we are now offering?

**Ms Jamieson:** Last day I spoke to the reports that have been sent out. You know we make the annual reports available, the ones we are dealing with today, 1989-90 and 1990-91, in both English and French. You asked me last day about the distribution of reports in French. I am able to report to you that 779 reports in all were mailed to provincial members, federal MPs, federal organizations, provincial cabinet ministers, constituency offices, deputy ministers of provincial ministries, francophone community groups and francophone media. We have quite a call for them, primarily in the northern offices. I will not go into the numbers of English reports.

The other part of your question is French-language services. I am not sure if you are inquiring about staffing and that kind of thing. I would be happy to speak to that, if that is what you are inquiring about, and the availability of bilingual services.

**Mr Curling:** Yes. What services are being increased? What services have been expanded?

**Ms Jamieson:** You may know that we have a toll-free line throughout the province. Services are available both in English and in French. I have nine district offices throughout the province. So far only Windsor, London and Kenora do not have bilingual capacity, which means that North Bay, Ottawa, Sault Ste Marie, Sudbury, Thunder Bay and Timmins have bilingual staff on site. The other offices would have the services available through our Toronto office.

I have two bilingual people on my intake staff, one dealing with non-jurisdictional inquiries and one dealing with jurisdictional inquiries. Each of my investigative teams has a designated bilingual position. Two teams are currently without, and we will be recruiting for that. One of my legal counsel is designated. I also have recently designated one of my supervisors in the newly created community access and intake department as a bilingual position. You may know from the reports that I place quite an emphasis on providing genuine access, and we are making some improvements in that area. Again, I am sure we have more to do.

**Mr Curling:** Are you doing anything with regard to illiteracy? There is a high rate of functional illiteracy in the French community. Is there any outreach program to get information to them?

**Ms Jamieson:** You may know that in the past we have done speaking engagements and so on. I would say we have not done them in as strategic a fashion as we might, and that is one of the parts of our work plan right now. My district offices are finalizing outreach strategies for each of the districts in the province. Before we did that, we had a very hard look at the makeup of the province so that we would know in which districts we have a concentration of francophone public, in which districts we have a disabled



community as a concentration, in which areas we have an aboriginal population, to target our outreach activities specifically to the district. We are preparing those as I speak. They should be done in, I believe, mid-February so that we will do not only outreach as we have done in the past but in a more strategic way.

You have hit one of the challenges for us there, illiteracy. How do you deal with that? One of the things we are doing is trying to revamp our materials. The other is to make more and more available as we can. This is the first year we have tried to make our report available on audio tape. I have that information for you actually.

Yes, those are the challenges, and they cost money, frankly. We are trying to look at what we can do strategically and within the resources we have available to meet the very clear needs, not only of the public who speak French but also members of the public who may speak Cree, Oji-Cree and so on. They are all important parts of the public who do not know and do not access my services as much as they could.

**Mr Curling:** Could you elaborate a little bit more on the native outreach program you have?

**Ms Jamieson:** Yes. I will be specific. This is one area where I have some specific plans in mind. Before I share them with you, I would like to say this, though. There are a number of ways of making sure my office is accessible to all the public. I think the most successful way we can do it is by looking at it on a number of fronts. The public is not going to access me if they do not know I exist, so that is one way, and with public education and the outreach activities we are trying to make sure they do.

One of the specific initiatives we have planned in the very near future involves a trip by me to the north. In the first week of February I will be going up the James Bay coast, accompanied by my district officer and director, and we will be going into the communities of Moose Factory, Fort Albany, Kashechewan, Attawapiskat and Peawanuck. That will be a first trip. That will not be the only one. As follow-up to that—because I do not think it is enough just to go in and say, “Here we are,” and go back to your office and wait for the complaints—there will be towards the end of 1992 another visit by the district officer, and twice yearly thereafter for the next two years, to make sure my services are known and accessible.

The other thing we have done and will be doing more of is that we have, for example, gone to the friendship centre in Sault Ste Marie with respect to aboriginal complaints. We have not sat in our office and waited for people to come to us. We have gone to the friendship centre and set up an intake clinic. I hope to do more of that elsewhere, including in Toronto, for example.

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We have an office in Toronto, but I think our obligation is to get out there and do more, to go to the people as well. That is one way, to do the public education, the outreach, and to do it strategically with good materials in a number of languages, to have a telecommunications device for the deaf and to do things like print business cards in Braille, which we are doing for the first time.

The other thing we need to do is internal. I need to make sure that when people access us we know how to receive their complaints, that we are sensitive, that we are knowledgeable, that they see, themselves, that my office represents the Ontario public. We have done a few things in that regard too and they are all part of how you make an office like this responsive to Ontario as a whole, including the aboriginal community.

There is cultural sensitivity training—we are just on the third part of that, which is very much about employment equity—proactive recruitment and bias re interviewing training we have done with managers inside my office. All of my staff, not two or three alone, are responsible for dealing with the people coming in the door. I think I will stop there.

**Mr Curling:** I know I might lose my turn, and I am not even looking at the Chairman, because I think he is going to cut me off soon, but let me ask you a question outside the native aspect and outside the French aspect too. You spoke about the response time of ministers. I think it would be extremely helpful if the committee could be kept informed of all those ministers who exceed the response time to submit their report to you or respond to you on any kind of inquiry you have.

The reason I am saying that is that it would be helpful for the committee to know which ministries are not co-operating or are having difficulties—maybe it is not a deliberate situation—because we have the ultimate responsibility to the electorate out there to see that these things function. Of course, we have the Ombudsman who is making sure he or she can identify these discrepancies, but do you think it would be helpful for us to have have those ministries that are not co-operating, those cases where you have to go beyond the ministries to the Premier in order to get a response, because then we will know who we are dealing with?

**Ms Jamieson:** We touched on this a bit on the first or the second day we met. With respect to response times, as I mentioned, I was hoping to do two lists in this annual report, the one we are talking about today, one the gold star list and the other what I call the “words of encouragement required” list. I tried very hard to come up with those lists in a fair way. I am still trying, and as I mentioned before—and some of the ministries out there listening might want to listen real hard—I am going to be commenting on things like response time, how long it takes them to answer a complaint I have put forward from the public, and whether they need words of encouragement or whether they need recognition.

The difficulty I have so far in doing this is that it is easy to say, “It took ministry X 15 days to answer, ministry Y 65 days to answer and ministry M 100 days to answer.” In and of itself that does not tell you a whole lot, because you then say: “Was the complaint that went to the ministry that answered in seven days an easily defined complaint? Did it have to do with lateness in receiving a social assistance cheque? Did the complaint that took 100 days to respond to provide a series of allegations that required

extensive investigation within the ministry to give me the information with which to make a decision?"

The difficulty I am having is in interpreting the data correctly, because it would be very easy for me to say, and I try and say, that in three weeks I require a response from the ministries. I try and judge each response as it comes in on whether it is justified to take longer than three weeks or not. I am struggling with that, Mr Curling, but I am determined to comment on it in this year's report. That will be made available to the committee.

**The Chair:** Thank you very much, Mr Curling.

**Mr Curling:** I have lots more to go.

**The Chair:** Are there any other comments or questions?

**Ms Haeck:** I actually have a bit of a supplementary to Mr Curling. Through the government caucus we have had some discussion about getting better consultation going with the native community, to be aware of their individual concerns. I know that, say, in Attawapiskat, the Attorney General's office has a special program and it is working rather well. But around what you intend to do, have you made the local communities aware already that you are going to be coming in three months hence, or two months hence? I know that sometimes because of the geography it is difficult, unlike picking up the phone here and saying, "There's this event. Can you get over here?" You have some real problems in getting people from one place to another, or in information flow. Can you comment on that?

**Ms Jamieson:** We have been in contact with the communities. I have written to every one of the chiefs. Also, my director of community access and intake has had telephone contact with all the communities already. We picked the date that would be convenient for all. I am preparing a special bit of information for the trip for which we have already arranged translation into syllabics.

It is extremely important to me that we make the most of the visit. These visits, as you may know, take considerable resources. We will be not only providing information but listening and taking complaints on site so that we make the most of the time we will have in each of the communities. We are trying to organize in each of the communities a mix of meetings, in co-operation with community leaders, with band councils, in the schools and community open meetings, and we are finalizing those details right now.

I cannot tell you how much I am looking forward to this visit. I have been to a number of communities in the north, fly-in communities and so on, and I am very well aware that they have need to speak to the Ombudsman from time to time. I am determined that they see a public face to the office so they will access our services, and that we go back and reinforce, that we not just do a one-time-only visit.

**Mr B. Murdoch:** Would you like me to wrap up?

**The Chair:** Please, if you would not mind.

**Mr B. Murdoch:** Maybe Alvin will not let me. First of all, I would like to thank you for coming. You have been here three times now and I appreciate that. I think we have

learned pretty well what your role is. I know you are pretty sure of what your role is and I think we should be. I still find it difficult to know where we fit into this whole thing. We have some time between now and the spring session. We have some days set aside. I guess what we are going to have to do is sit down among ourselves and read the act properly and try to figure out just where we really fit in with you, because we get complaints from time to time and we have to find out how to deal with them with your office.

I do not think we really want to have to have you back here to deal with each individual complaint we may get because we do not know whether it is legitimate or whatever, but we have to deal with them. We have to see where we fit in this whole scope of things. As we have said before in the last few meetings, if we do not like the act, we have to change the act. We are the legislators you deal with. I guess that is what we are going to have sit down and do.

We have some new faces. I know Christel Haeck was not here when we seemed to get all frustrated and say, "Where do we sit with you?" In the past, we have had some problems—at least, we think we have had, anyway—in getting information. Maybe we cannot get that information. I do not know. I think if it boils down to the fact that we have directed staff to get some information from your office and you feel you cannot give us that information, I think we have to come back in a closed meeting and sit down and say: "We think we should have this. Tell us why we shouldn't." Maybe we will have to get specific. Eventually, it will all be sorted out.

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I still do not know where we sit, to be honest with you. I know where you sit, and that is fine. I have no problem with that with this committee. I guess we are going to have to do it among ourselves. If we do not like the way it is, we will have to change it. That is what it is all about.

One final thing is that maybe to make our relationship so much better, you should take us with you to James Bay, but I would rather go in the summer. If you are going in February—

**Ms Jamieson:** You would rather go in blackfly season, would you, Bill?

**Mr B. Murdoch:** Yes, I think I would rather go then than in the winter. February in James Bay does not turn me on. It is bad enough up in Grey right now. We have lots of snow.

**Ms Jamieson:** That is where I guess I am lucky, because I enjoy this weather. I still have my parka. If I can fit it, I will have that on to go up in February.

**Mr B. Murdoch:** If you just hit away from the fly season, either before or just after it, then maybe we could go then. I thought I would throw that in. It is just a suggestion.

**Ms Haeck:** An alternative is Australia.

**Mr B. Murdoch:** I thought there was one in Geneva we were supposed to go to.

**Interjection:** Vienna.



**Mr B. Murdoch:** Vienna, okay. Maybe we will all go together to that one, but hopefully we will have got our problems sorted out by then. I do not think we are sorted out. We are going to have problems, and I can see all of us jumping at the bit here. If you want me to wrap up, I will give it back to you. All I really want to say today is that I appreciate your coming. I think we still have some things to work out, but I think we have to come back here and say, "Where did we get, how far did we get, and where have we got to go?"

**Ms Jamieson:** If I could just add a word or two, yes, in the last year or two, there has been information requested, including files and so on. No, I cannot provide it. It has nothing to do with a lack of willingness, I assure you. It has to do with the confidentiality requirements that the Legislature has seen fit to put on my office. If between meetings there are questions or concerns that staff of committee have had, I have designated LaVerne Monette, the director of investigations and legal services, who is also here today, as the contact person for committee, clerk and counsel to work out any glitches. They can meet and discuss the restrictions, the parameters of the act and help clarify in that way. I am happy to commit to those meetings, and I know she is happy to attend them. I want to make that undertaking again to the Chair. I think the clerk and staff know one another, so maybe we can set that kind of meeting in the interim, if it would help.

**The Chair:** That actually raises a point I was just going to raise. After this meeting, if there are any comments or questions, I am sure that if we write them out, you will be more than happy to respond to them.

**Ms Jamieson:** Certainly.

**The Chair:** Mr Curling, you had something brief.

**Mr Curling:** There are certain ministers who, because of their portfolio, almost require you to be in contact with them quite often. Do you meet regularly with, specifically, the Minister of Community and Social Services, the Minister of Health, and especially the minister of human rights and race relations? Do you meet regularly with that minister? Those are the complaints I get with regard to the handling of people's cases out there. Have you had the opportunity of meeting with those ministers regularly?

**Ms Jamieson:** With some ministries we set up regularized meetings.

**Mr Curling:** But I am speaking about the ministers themselves.

**Ms Jamieson:** The ministers themselves? Up until this time, I meet only as and when I have complaints that require their attention. Over the last two years, actually, I have met with a number of them, first, just to touch base at the outset of my appointment and theirs, and thereafter, when I have complaints, files that require their attention. Are you suggesting we consider doing something more on a regularized basis?

**Mr Curling:** I was just responding to a statement of fact you made. As you say, as the community and our society become more diverse—you did not say it, but you were alluding to that—and complex, we find services that

are offered to people that are either misunderstood or confusing. It is just to take a great leap in order that you meet regularly to say, "These are the problems I am facing out there." As a committee, we know that too. It is that kind of support we can give. That is why I ask if you do so. Maybe if the recommendation is outside your area, at some time we may then ask the ministers to come before the committee to say that these are some of the cases we are seeing. I would like the system to work for the people, especially those who are more vulnerable in our society as we become more complex. Thank you very much, Mr. Chair, for allowing me that extra little time.

**The Chair:** There is no problem there, Mr Curling. Are there any more comments or questions?

**Mr Curling:** I want to thank the Ombudsman for coming here. I really have so many questions that come up after we ask one question. There are many more and I am looking forward to having a one-to-one with you. I think I could get more answers from you.

**Ms Jamieson:** Thank you.

**Ms Haeck:** I have one short question. I have not at this point asked the Minister of Agriculture and Food for information in this area, but I will set about doing it. I understand from people in my own area of St Catharines-Brock that there is a case your office has been dealing with relating to an agricultural issue. It is a federal-provincial agreement relating to a grape pull out and replacement program. I know there were some 20-odd farmers who were somewhat concerned about some aspects of that program. Possibly Ms Monette can get back to me at a later time, to find out where this is, because they were concerned. This is some months ago, but they still had not heard one way or another. Do you rule on federal-provincial matters? You would be ruling basically on the provincial end of it. If there is a federal component, would you get involved at all?

**Ms Jamieson:** For obvious reasons, I will not respond to the particulars of that.

**Ms Haeck:** I appreciate that.

**Ms Jamieson:** On federal and provincial, that has been a bit of a challenge. I think it will be more of a challenge, because there are so many programs that are available by virtue of federal-provincial agreement. To date I have only examined the complaint in terms of the provincial role in decision-making or in action on a particular matter. Sometimes that is easier than others, as you might expect. I see this as a real challenge for the future.

I do not know whether the committee has discussed this matter, but I and my colleagues across the country have been suggesting in the strongest of terms to the federal government that it consider the appointment of a federal Ombudsman, because I have nowhere to refer complaints that I get from people about federal programs, federal issues. They go to their member and they go to the government department concerned, but there is no federal Ombudsman, particularly in the field of aboriginal affairs. My colleagues and I are really lobbying hard for this appointment. As I see more and more federal-provincial programs that may be the subject of complaint or concern, I

really do not have a counterpart to work with and it makes it awkward and difficult. On the specifics, we will have a look at that and be back in touch with you.

**Ms Haeck:** I appreciate your comments because I anticipate that it is a thorny issue because of the two levels of government being involved. I also appreciate the fact that Ms Monette will get back to me.

**The Chair:** In closing, there is something I would like you to supply to us at a future date if you can. Can we get a copy of the results of your survey? You have mentioned that a few times.

**Ms Jamieson:** There is only a summary in the annual report. There is a fuller version and I would be pleased to provide that to the committee. If you will just let us know how many copies, I will be happy to provide it through the

clerk to the committee. It is a very interesting survey, and once you have had a look at it, you may want to talk about the findings. Further, it raises some questions in my mind, but I will hold any further discussions until you have had an opportunity to review it in its entirety.

**The Chair:** I want to thank you for that. I am sure we will only need one copy, as the clerk can make copies. I want to thank you for appearing before us. This is your third time, and I know we have taken a lot of your time. I want to thank you on behalf of all members present. I also want to wish you and your staff a merry Christmas.

**Ms Jamieson:** In my language, Nyaweh means thank you, and on New Year's in my community we say New Yah.

The committee adjourned at 1132.



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